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UNITED KINGDOM

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MAR 02 2007

OFFICE OF PETITIONS

In re Application of :
Holger Norenberg :
Application No. 10/776,696 : ON PETITION
Filed: 02/12/2004 :
For: METHOD AND APPARATUS FOR :
MEASURING THE RATE OF :
PERMEATION OF GASES AND VAPOURS :
THROUGH MATERIALS :

This is a decision on the petition filed on 25 August, 2006, under 37 CFR 1.137(a)¹ to revive the above-identified application.

The petition is dismissed.

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

The application became abandoned on 27 October, 2005, for failure to file a proper response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 26 September, 2005, which set

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

- (1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
- (2) the petition fee as set forth in 37 CFR 1.17(1);
- (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 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).

a one (1) month shortened statutory period for reply. On 18 October, 2005, petitioner filed a corrected amendment, but the amendment document failed to provide the corrective action required by the Notice mailed on 26 September, 2005. A Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) *No New Time Period for Reply is Provided*, was mailed on 18 November, 2005. An additional corrected amendment was filed on 5 December, 2005, but was not accompanied by any extension of time under 37 CFR 1.136(a). Notice of Abandonment was mailed on 9 August, 2006.

Petitioner asserts, in pertinent part:

Reply to Office letter mailed 18 Nov 2005 was sent 30 Nov 2005 including 2 copies of amended patent application.

Only on 17 Aug 2006 after receiving Notice of Abandonment did I recognize that the reply sent 30 Nov 2005 did not arrive.

As I did not know this before 17 August, 2006 the delay was unavoidable.

The petition is accompanied by a copy of an amendment.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".² Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

² 35 U.S.C. § 133.

there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.³

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).⁴ Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.⁵

At the outset, it is noted that the amendment which petitioner claims was sent on 30 November, 2005, was in fact received in the Office on 5 December, 2005, as the amendment received on that date includes a sheet labeled "REMARKS" signed by the inventor and dated 30 November 2005. It is further noted that the copy of the amendment filed with the petition appears to be a copy of the amendment filed on 5 December, 2005.

It is further noted that the Notice mailed on 18 November, 2005, states that the amendment filed on 18 October, 2005, did not satisfy the requirements of 37 CFR 1.121, and that no new time period would be provided, but that extensions of time from the mailing of the Notice mailed on 26 September, 2005, could be obtained. No extensions of time were filed with the amendment filed on 18 November, 2005. As such, the application was properly held abandoned.

MPEP 714.03(a) states that:

Applicants are encouraged to include a complete fully responsive reply in compliance with 37 CFR 1.111(b) to an outstanding Office action in the first reply to prevent the need for supplemental replies. Supplemental replies will not be entered as a matter of right,

³ In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

⁴ See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

⁵ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

except when a supplemental reply is filed within a suspended period under 37 CFR 1.103(a) or (c) (e.g., a suspension of action requested by the applicant when filing an RCE).

The showing of record, therefore, is that the application became abandoned because petitioner failed to file a proper and timely reply to the Notice mailed on 18 November, 2005, in that the amendment filed on 5 December, 2005, was not accompanied by a proper extension of time. Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP, does not constitute "unavoidable" delay.⁶

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

ALTERNATIVE VENUE

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

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

⁶ See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

The Commissioner may required additional information where there is a question whether the delay was unintentional; and

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

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

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

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement
Fee Schedule

**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.

[Page 1 of 2]

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

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature

Date

Typed or printed name

Registration Number, if applicable

Address

Telephone Number

Address

Enclosures: Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

REVISED FEE SCHEDULE

H.R. 4818, the Consolidated Appropriations Act, 2005 (Consolidated Appropriations Act) was signed by the President and enacted into law on December 8, 2004 (Public Law 108-447). The Consolidated Appropriations Act revises certain patent application and maintenance fees; provides separate fees for a basic filing fee, a search fee, and an examination fee; and requires an additional fee for any patent application whose specification and drawings exceed 100 sheets of paper (application size fee). In addition, the trademark application fee, per class, is revised if submitted by paper or electronically using the Trademark Electronic Application System (TEAS).

Notices will be published in the *Federal Register* and in the *Official Gazette of the United States Patent and Trademark Office* to provide additional information.

Any fee amount paid on or after December 8, 2004 must be paid as shown in the revised fee schedule, which reflects when the old filing fees still apply. However, fee amounts paid on or after the following dates for the fees below are subject to the revised fee schedule:

- January 31, 2005, for 37 CFR 2.6(a)(1)(i) and (ii); and
- February 1, 2005, for 37 CFR 1.492(b)(1), (b)(2), and (c)(1).

The fee schedule is available on our Web site at www.uspto.gov. The most up-to-date fee amounts and information, as well as the complete listing and description of fees, are also available on our Web site. Any future changes to the fees will be posted to the Web site. If you have any questions related to patents and trademarks, please call the USPTO Contact Center at (703) 308-4357 or (800) 786-9199, or by fax at (703) 305-7786.

Handwritten signature of Jo-Anne Barnard in cursive.

Jo-Anne Barnard
Chief Financial Officer and
Chief Administrative Officer

UNITED STATES PATENT AND TRADEMARK OFFICE

Effective December 8, 2004*

Any fee amount paid on or after December 8, 2004, must be paid as shown in the revised fee schedule.

The fees subject to reduction for small entities that have established status (37 CFR 1.27) are shown in a separate column.

For additional information, please call the USPTO Contact Center at (703) 308-4357 or (800) 786-9199.

*The effective date for the fee amounts in 37 CFR 2.6(a)(1) is January 31, 2005.

The effective date for the fee amounts in 37 CFR 1.492(b)(1), (b)(2), and (c)(1) is February 1, 2005.

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Application Filing Fees				
1011/2011	1.16(a)(1)	Basic filing fee - Utility <i>filed on or after December 8, 2004</i>	300.00	150.00
4011†	1.16(a)(1)	Basic filing fee - Utility (electronic filing) <i>filed on or after December 8, 2004</i>	N/A	75.00
1001/2001	1.16(a)(2)	Basic filing fee - Utility <i>filed before December 8, 2004</i>	790.00	395.00
1201/2201	1.16(h)	Independent claims in excess of three	200.00	100.00
1202/2202	1.16(i)	Claims in excess of 20	50.00	25.00
1203/2203	1.16(j)	Multiple dependent claim	360.00	180.00
1051/2051	1.16(f)	Surcharge - Late filing fee or oath or declaration	130.00	65.00
1081/2081	1.16(s)	Utility Application Size Fee - for each additional 50 sheets	250.00	125.00
1012/2012	1.16(b)(1)	Basic filing fee - Design <i>filed on or after December 8, 2004</i>	200.00	100.00
1002/2002	1.16(b)(2)	Basic filing fee - Design <i>filed before December 8, 2004</i>	350.00	175.00
1017/2017	1.16(b)(1)	Basic filing fee - Design (CPA) <i>filed on or after December 8, 2004</i>	200.00	100.00
1007/2007	1.16(b)(2)	Basic filing fee - Design (CPA) <i>filed before December 8, 2004</i>	350.00	175.00
1082/2082	1.16(s)	Design Application Size Fee - for each additional 50 sheets	250.00	125.00
1013/2013	1.16(c)(1)	Basic filing fee - Plant <i>filed on or after December 8, 2004</i>	200.00	100.00
1003/2003	1.16(c)(2)	Basic filing fee - Plant <i>filed before December 8, 2004</i>	550.00	275.00
1083/2083	1.16(s)	Plant Application Size Fee - for each additional 50 sheets	250.00	125.00
1014/2014	1.16(e)(1)	Basic filing fee - Reissue <i>filed on or after December 8, 2004</i>	300.00	150.00
1004/2004	1.16(e)(2)	Basic filing fee - Reissue <i>filed before December 8, 2004</i>	790.00	395.00
1019/2019	1.16(e)(1)	Basic filing fee - Design Reissue (CPA) <i>filed on or after December 8, 2004</i>	300.00	150.00
1009/2009	1.16(e)(2)	Basic filing fee - Design Reissue (CPA) <i>filed before December 8, 2004</i>	790.00	395.00
1204/2204	1.16(h)	Reissue independent claims in excess of three	200.00	100.00
1205/2205	1.16(i)	Reissue claims in excess of 20	50.00	25.00
1084/2084	1.16(s)	Reissue Application Size Fee - for each additional 50 sheets	250.00	125.00
1005/2005	1.16(d)	Provisional application filing fee	200.00	100.00
1085/2085	1.16(s)	Provisional Application Size Fee - for each additional 50 sheets	250.00	125.00
1052/2052	1.16(g)	Surcharge - Late provisional filing fee or cover sheet	50.00	25.00
1053	1.17(i)	Non-English specification	130.00	
Patent Search Fees				
1111/2111	1.16(k)	Utility Search Fee	500.00	250.00
1112/2112	1.16(l)	Design Search Fee	100.00	50.00
1113/2113	1.16(m)	Plant Search Fee	300.00	150.00
1114/2114	1.16(n)	Reissue Search Fee	500.00	250.00
Patent Examination Fees				
1311/2311	1.16(o)	Utility Examination Fee	200.00	100.00
1312/2312	1.16(p)	Design Examination Fee	130.00	65.00
1313/2313	1.16(q)	Plant Examination Fee	160.00	80.00
1314/2314	1.16(r)	Reissue Examination Fee	600.00	300.00
Patent Post-Allowance Fees				
1501/2501	1.18(a)	Utility issue fee	1,400.00	700.00
1502/2502	1.18(b)	Design issue fee	800.00	400.00
1503/2503	1.18(c)	Plant issue fee	1,100.00	550.00
1511/2511	1.18(a)	Reissue issue fee	1,400.00	700.00
1504	1.18(d)	Publication fee for early, voluntary, or normal publication	300.00	
1505	1.18(d)	Publication fee for republication.....	300.00	

† The 4000 series fee code may be used via EFS at <http://www.uspto.gov/ebc/efs/>.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
Patent Maintenance Fees				
1551/2551	1.20(e)	Due at 3.5 years	900.00	450.00
1552/2552	1.20(f)	Due at 7.5 years	2,300.00	1,150.00
1553/2553	1.20(g)	Due at 11.5 years	3,800.00	1,900.00
	1.20(h)	Surcharge - Late payment within 6 months	130.00	65.00
1557	1.20(i)(1)	Surcharge after expiration - Late payment is unavoidable	700.00	
1558	1.20(i)(2)	Surcharge after expiration - Late payment is unintentional	1,640.00	
Miscellaneous Patent Fees				
1801/2801	1.17(e)	Request for Continued Examination (RCE) (see 37 CFR 1.114)	790.00	395.00
1808	1.17(i)	Processing fee, except in provisional applications	130.00	
1803	1.17(i)	Request for voluntary publication or republication	130.00	
1802	1.17(k)	Request for expedited examination of a design application	900.00	
1804	1.17(n)	Request for publication of SIR - Prior to examiner's action	920.00*	
1805	1.17(o)	Request for publication of SIR - After examiner's action	1,840.00*	
1806	1.17(p)	Submission of an Information Disclosure Statement	180.00	
1807	1.17(q)	Processing fee for provisional applications	50.00	
1809/2809	1.17(r)	Filing a submission after final rejection (see 37 CFR 1.129(a))	790.00	395.00
1810/2810	1.17(s)	For each additional invention to be examined (see 37 CFR 1.129(b))	790.00	395.00
Post Issuance Fees				
1811	1.20(a)	Certificate of correction	100.00	
1812	1.20(c)(1)	Request for ex parte reexamination	2,520.00	
1813	1.20(c)(2)	Request for inter partes reexamination	8,800.00	
1821/2821	1.20(c)(3)	Reexamination independent claims in excess of three	200.00	100.00
1822/2822	1.20(c)(4)	Reexamination claims in excess of 20	50.00	25.00
1814/2814	1.20(d)	Statutory disclaimer	130.00	65.00
Patent Extension of Time Fees				
1251/2251	1.17(a)(1)	Extension for response within first month	120.00	60.00
1252/2252	1.17(a)(2)	Extension for response within second month	450.00	225.00
1253/2253	1.17(a)(3)	Extension for response within third month	1,020.00	510.00
1254/2254	1.17(a)(4)	Extension for response within fourth month	1,590.00	795.00
1255/2255	1.17(a)(5)	Extension for response within fifth month	2,160.00	1,080.00
Patent Appeals/Interference Fees				
1401/2401	41.20(b)(1)	Notice of appeal	500.00	250.00
1402/2402	41.20(b)(2)	Filing a brief in support of an appeal	500.00	250.00
1403/2403	41.20(b)(3)	Request for oral hearing	1,000.00	500.00
Patent Petition Fees				
1462	1.17(f)	Petitions requiring the petition fee set forth in 37 CFR 1.17(f) (Group I)	400.00	
1463	1.17(g)	Petitions requiring the petition fee set forth in 37 CFR 1.17(g) (Group II)	200.00	
1464	1.17(h)	Petitions requiring the petition fee set forth in 37 CFR 1.17(h) (Group III)	130.00	
1451	1.17(j)	Petition to institute a public use proceeding	1,510.00	
1452/2452	1.17(l)	Petition to revive unavoidably abandoned application	500.00	250.00
1453/2453	1.17(m)	Petition to revive unintentionally abandoned application	1,500.00	750.00
1454	1.17(t)	Acceptance of an unintentionally delayed claim for priority	1,370.00	
1455	1.18(e)	Filing an application for patent term adjustment	200.00	
1456	1.18(f)	Request for reinstatement of reduced term	400.00	
1457	1.20(j)(1)	Extension of term of patent	1,120.00	
1458	1.20(j)(2)	Initial application for interim extension (see 37 CFR 1.790)	420.00	
1459	1.20(j)(3)	Subsequent application for interim extension (see 37 CFR 1.790)	220.00	

* Reduced by basic filing fee paid.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee
Trademark Processing Fees*			
6001	2.6(a)(1)(i)	Application for registration, per international class (paper filing)	375.00
7001	2.6(a)(1)(ii)	Application for registration, per international class (electronic filing)	325.00
6002/7002	2.6(a)(2)	Filing an Amendment to Allege Use under § 1(c), per class	100.00
6003/7003	2.6(a)(3)	Filing a Statement of Use under § 1(d)(1), per class	100.00
6004/7004	2.6(a)(4)	Filing a Request for a Six-month Extension of Time for Filing a Statement of Use under § 1(d)(1), per class	150.00
6005/7005	2.6(a)(15)	Petitions to the Director	100.00
6006	2.6(a)(19)	Dividing an application, per new application (file wrapper) created	100.00
6201/7201	2.6(a)(5)	Application for renewal, per class	400.00
6203/7203	2.6(a)(6)	Additional fee for filing renewal application during grace period, per class	100.00
6204	2.6(a)(21)	Correcting a deficiency in a renewal application	100.00
6205/7205	2.6(a)(12)	Filing § 8 affidavit, per class	100.00
6206/7206	2.6(a)(14)	Additional fee for filing § 8 affidavit during grace period, per class	100.00
6207	2.6(a)(20)	Correcting a deficiency in a § 8 affidavit	100.00
6208/7208	2.6(a)(13)	Filing § 15 affidavit, per class	200.00
6210	2.6(a)(7)	Publication of mark under § 12(c), per class	100.00
6211	2.6(a)(8)	Issuing new certificate of registration	100.00
6212	2.6(a)(9)	Certificate of correction, registrant's error	100.00
6213	2.6(a)(10)	Filing disclaimer to registration	100.00
6214	2.6(a)(11)	Filing amendment to registration	100.00
6401/7401	2.6(a)(16)	Petition for cancellation, per class	300.00
6402/7402	2.6(a)(17)	Notice of opposition, per class	300.00
6403/7403	2.6(a)(18)	Ex parte appeal, per class	100.00
Trademark Madrid Protocol Fees*			
6901/7901	7.6(a)(1)	International application based on single application or registration, per class	100.00
6902/7902	7.6(a)(2)	Certifying an International application based on more than one basic application	150.00
6903/7903	7.6(a)(3)	Transmitting a Request to Record an Assignment or restriction under § 7.23 or 7.24	100.00
6904/7904	7.6(a)(4)	Filing a Notice of Replacement, per class	100.00
6905/7905	7.6(a)(5)	Filing an affidavit under § 71 of the Act	100.00
6906/7906	7.6(a)(6)	Surcharge for filing affidavit under § 71 of the Act during grace period, per class	100.00
6907/7907	7.6(a)(7)	Transmitting a subsequent designation	100.00
Trademark Service Fees			
8501	2.6(b)(1)	Printed copy of registered mark, delivery by USPS, USPTO Box, or electronic means	3.00
8503	2.6(b)(4)(i)	Certified copy of registered mark, with title and/or status, regular service	15.00
8504	2.6(b)(4)(ii)	Certified copy of registered mark, with title and/or status, expedited local service	30.00
8507	2.6(b)(2)	Certified copy of trademark application as filed	15.00
8508	2.6(b)(3)	Certified or uncertified copy of trademark-related file wrapper and contents	50.00
8513	2.6(b)(5)	Certified or uncertified copy of trademark document, unless otherwise provided	25.00
8514	2.6(b)(7)	For assignment records, abstracts of title and certification per registration	25.00
8902	2.6(b)(9)	Self-service copy charge, per page	0.25
8521	2.6(b)(6)	Recording trademark assignment, agreement or other paper, first mark per document	40.00
8522	2.6(b)(6)	For second and subsequent marks in the same document	25.00
8523	2.6(b)(10)	Labor charges for services, per hour or fraction thereof	40.00
8524	2.6(b)(11)	Unspecified other services, excluding labor	AT COST
Fastener Quality Act Fees			
6991	2.7(a)	Recordal application fee	20.00
6992	2.7(b)	Renewal application fee	20.00
6993	2.7(c)	Late fee for renewal application	20.00

* The 7000 series fee code (e.g., 7001, 7002, etc.) is used for electronic filings via TEAS, which is available at www.uspto.gov/teas/. In addition, the 6000 series fee codes under the Trademark Madrid Protocol Fees are being offered for use as a paper-based filing alternative.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee	Small Entity Fee (if applicable)
<u>PCT Fees - National Stage</u>				
1631/2631	1.492(a)	Basic National Stage Fee	300.00	150.00
1641/2641	1.492(b)(1)	National Stage Search Fee - U.S. was the ISA	100.00	50.00
1642/2642	1.492(b)(2)	National Stage Search Fee - search report prepared and provided to USPTO	400.00	200.00
1632/2632	1.492(b)(3)	National Stage Search Fee - all other situations	500.00	250.00
1643/2643	1.492(c)(1)	National Stage Examination Fee - U.S. was IPEA, and all claims satisfy PCT Article 33(1)-(4)	100.00	50.00
1633/2633	1.492(c)(2)	National Stage Examination Fee - all other situations	200.00	100.00
1614/2614	1.492(d)	Claims - extra independent (over three)	200.00	100.00
1615/2615	1.492(e)	Claims - extra total (over 20)	50.00	25.00
1616/2616	1.492(f)	Claims - multiple dependent	360.00	180.00
1681/2681	1.492(j)	National Stage Application Size Fee - for each additional 50 sheets	250.00	125.00
1617/2617	1.492(h)	Oath or declaration after 30 months from priority date	130.00	65.00
1618	1.492(i)	English translation after 30 months from priority date	130.00	
<u>PCT Fees - International Stage</u>				
1601	1.445(a)(1)	Transmittal fee	300.00	
1602	1.445(a)(2)	PCT search fee - no prior U.S. application filed under 35 USC 111(a)	1,000.00	
1603	1.445(a)(2)	PCT search fee - prior U.S. application filed under 35 USC 111(a)	300.00	
1604	1.445(a)(3)	Supplemental search fee per additional invention	1,000.00	
1605	1.482(a)(1)	Preliminary examination fee - U.S. was the ISA	600.00	
1606	1.482(a)(1)	Preliminary examination fee - U.S. was not the ISA	750.00	
1607	1.482(a)(2)	Supplemental examination fee per additional invention	600.00	
1619		Late payment fee	VARIABLE	
1620		Confirmed precautionary designation - confirmation portion	52.00*	
1621		Transmitting application to Intl. Bureau to act as receiving office	300.00	
1624		Confirmed precautionary designation - designation portion	104.00*	
<u>PCT Fees to WIPO or EPO**</u>				
1701		International filing fee (first thirty pages) - PCT Easy	1,053.00	
1702		International filing fee - (first thirty pages)	1,134.00	
1703		Supplemental international filing fee (for each page over thirty)	12.00	
1704		International search (EPO)	1,920.00	
1705		Handling fee	162.00	
1708		International CD applications	4,800.00	
<u>Patent Enrollment Fees</u>				
9001	1.21(a)(1)(i)	Application fee (non-refundable)	40.00	
9003	1.21(a)(2)	Registration to practice or grant limited recognition under § 11.9(b) or (c) ..	100.00	
9004	1.21(a)(3)	Reinstatement to practice	40.00	
9005	1.21(a)(4)	Certificate of good standing as an attorney or agent	10.00	
9006	1.21(a)(4)	Certificate of good standing as an attorney or agent, suitable for framing	20.00	
9010	1.21(a)(1)	For test administration by commercial entity	200.00	
9011	1.21(a)(1)	For test administration by the USPTO	450.00	
9012	1.21(a)(5)(i)	Review of decision by the Director of Enrollment and Discipline under § 11.2(c)	130.00	
9013	1.21(a)(5)(ii)	Review of decision of the Director of Enrollment and Discipline under § 11.2(d)	130.00	
9014	1.21(a)(10)	Application fee for person disciplined, convicted of a felony or certain misdemeanors	1,600.00	

* PCT fee codes 1620 and 1624 only apply to international applications filed prior to January 1, 2004.

** WIPO and EPO fees subject to periodic change due to fluctuations in exchange rate. Refer to the *Official Gazette of the United States Patent and Trademark Office* for current amounts.

PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED

Fee Code	37 CFR	Description	Fee
Patent Service Fees			
8001	1.19(a)(1)	Printed copy of patent w/o color, delivery by USPS, USPTO Box, or electronic means	3.00
8003	1.19(a)(2)	Printed copy of plant patent in color	15.00
8004	1.19(a)(3)	Color copy of patent (other than plant patent) or SIR containing a color drawing	25.00
8005	1.19(a)(1)	Patent Application Publication (PAP)	3.00
8007	1.19(b)(1)(i)(A)	Copy of patent application as filed	20.00
8008	1.19(b)(1)(i)(B)	Copy of patent-related file wrapper and paper contents of 400 or fewer pages	200.00
8009	1.19(b)(1)(i)(C)	Each additional 100 pages of patent-related file wrapper and (paper) contents, or portion thereof	40.00
8010	1.19(b)(1)(i)(D)	Certification of patent-related file wrapper and (paper) contents	25.00
8011	1.19(b)(1)(ii)(B)	Copy of patent-related file wrapper and contents if provided electronically or on a physical electronic medium as specified in § 1.19(b)(1)(ii)	55.00
8012	1.19(b)(1)(ii)(C)	Each continuing physical electronic medium in single order of § 1.19(b)(1)(ii)(B)	15.00
8041	1.19(b)(2)(i)(A)	Copy of patent-related file wrapper contents, other than as available in § 1.19(b)(1); first physical electronic medium in a single order	55.00
8042	1.19(b)(2)(i)(B)	Each continuing copy of patent-related file wrapper and contents as specified in § 1.19(b)(2)(i)(A)	15.00
8043	1.19(b)(2)(ii)	Copy of patent-related file wrapper contents other than as available in § 1.19(b)(1); provided electronically other than on a physical electronic medium	55.00
8013	1.19(b)(3)	Copy of office records, except copies of applications as filed	25.00
8014	1.19(b)(4)	For assignment records, abstract of title and certification, per patent	25.00
8904	1.19(c)	Library service	50.00
8015	1.19(d)	List of U.S. patents and SIRs in subclass	3.00
8016	1.19(e)	Uncertified statement re status of maintenance fee payments	10.00
8017	1.19(f)	Copy of non-U.S. document	25.00
8050	1.19(g)	Petitions for documents in form other than that provided by this part, or in form other than that generally provided by Director, to be decided in accordance with merits	AT COST
8018	1.21(c)	Disclosure document filing fee	10.00
8019	1.21(d)	Local delivery box rental, annually	50.00
8020	1.21(e)	International type search report	40.00
8902	1.21(g)	Self-service copy charge, per page	0.25
8021	1.21(h)	Recording each patent assignment, agreement or other paper, per property	40.00
8022	1.21(i)	Publication in <i>Official Gazette</i>	25.00
8023	1.21(j)	Labor charges for services, per hour or fraction thereof	40.00
8024	1.21(k)	Unspecified other services, excluding labor	AT COST
8025	1.21(l)	Retaining abandoned application	130.00
8026	1.21(n)	Handling fee for incomplete or improper application	130.00
8027	1.296	Handling fee for withdrawal of SIR	130.00

GENERAL FEES

Finance Service Fees

9201	1.21(b)(1) or 2.6(b)(13)(i)	Establish deposit account	10.00
9202	1.21(b)(2) or 2.6(b)(13)(ii)	Service charge for below minimum balance	25.00
9202	1.21(b)(3)	Service charge for below minimum balance restricted subscription deposit account	25.00
9101	1.21(m) or 2.6(b)(12)	Processing each payment refused or charged back	50.00

Computer Service Fees

8031/8531		Computer records	AT COST
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PAYMENTS FROM FOREIGN COUNTRIES MUST BE PAYABLE AND IMMEDIATELY NEGOTIABLE IN THE UNITED STATES FOR THE FULL AMOUNT OF THE FEE REQUIRED



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DWW Nov-09

HOLGER NORENBURG
22 QUSELEY CLOSE
OXFORD OX3 0JS
UNITED KINGDOM

COPY MAILED

NOV 24 2009

OFFICE OF PETITIONS

In re Application of :
Holger Norenberg :
Application Number: 10/776696 : ON PETITION
Filing Date: 02/12/2004 :
For: METHOD AND APPARATUS FOR :
MEASURING THE RATE OF :
PERMEATION OF GASES AND VAPOURS :
THROUGH MATERIALS :

This is a decision on the petition under 37 CFR 1.137(b)¹ filed on April 17, 2007, to revive the above-identified application.

The Office apologizes for the delay in responding to the subject petition.

The petition is **GRANTED**.

This application became abandoned on October 27, 2005, for failure to file a proper response to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on September 26, 2005, which set a one (1) month shortened period for reply. On October 18, 2005,

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

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

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

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

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

a corrected amendment was filed, but the amendment document failed to provide the corrective action required by the Notice mailed on September 26, 2005. A Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) *No New Time Period for Reply is Provided*, was mailed on November 18, 2005. An additional corrected amendment was filed on December 5, 2005, but was not accompanied by any extension of time under 37 CFR 1.136(a). Notice of Abandonment was mailed on August 9, 2006. On August 25, 2006, a petition under 37 CFR 1.137(a) was filed. On March 2, 2007, the petition was dismissed.

On April 17, 2007, the subject petition was filed, accompanied by the required fee and a corrected amendment.

The application is being referred to the Office of Patent Application Processing for further processing.

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



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. 090304

DUANE MORRIS LLP
100 COLLEGE ROAD WEST, SUITE 100
PRINCETON, NJ 08540

OCT - 8 2004

In re Application of:	:	
ANTHONY KURTZ <i>et al.</i>	:	
Serial No.: 10/776,707	:	DECISION ON REQUEST TO WITHDRAW
Filed: February 11, 2004	:	FROM RECORD
Attorney Docket No.: N0843-00112	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 02, 2004.

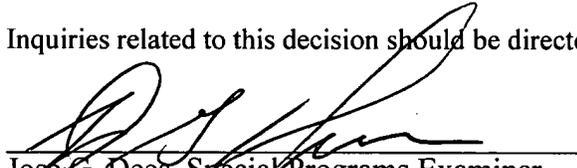
A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval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

The request meets all the above stated requirements. The request was signed by Paul A. Schwarz, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Plevy & Howard, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.



Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PLEVY & HOWARD
600 NORTH EASTON ROAD
WILLOW GROVE, PA 19090



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
10/776,714	02/10/2004	2823	770	13732.10USD1	5	11	2

23552
 MERCHANT & GOULD PC
 P.O. BOX 2903
 MINNEAPOLIS, MN 55402-0903

CONFIRMATION NO. 2803
CORRECTED FILING RECEIPT



OC000000014836748

Date Mailed: 12/28/2004

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)

Shu-Liang Nin, Taoyuan City, TAIWAN;

Assignment For Published Patent Application

NANYA TECHNOLOGY CORPORATION, Taoyuan, TAIWAN

Power of Attorney: The patent practitioners associated with Customer Number 23552.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/150,389 05/17/2002 PAT 6,734,572

Foreign Applications

TAIWAN 91105490 03/21/2002

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 US10/776,714

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pad structure for bonding pad and probe pad and manufacturing method thereof

Preliminary Class

438

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

GRANTED

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

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

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

NOT GRANTED

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



Lawrence G. Almeda
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago IL 60610

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of	:	
OSBORNE, THOMAS A.	:	
Application No. 10/776,721	:	ON APPLICATION FOR
Filed: 02/11/2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 8627-451	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d)" filed February 18, 2010, which is properly being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand fifty-two (1052) days, not seven hundred forty-six (746) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

¹ For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

C-F. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6731

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JAN 03 2008
OFFICE OF PETITIONS

In re Application of :
DEWAELE, PIET :
Application No. 10/776,736 : DECISION ON PETITION
Filed: 02/10/2004 :
Attorney Docket No. 226367 :

This is a decision on the "REQUEST TO WITHDRAW ERRONEOUS HOLDING OF ABANDONMENT OR, IN THE ALTERNATIVE, PETITION TO REVIVE A PATENT APPLICATION ABANDONED UNINTENTIONALLY UNDER 37 C.F.R § 1.137(b)," filed October 24, 2007.

The application became abandoned for failure to respond timely to the nonfinal Office action, mailed on February 28, 2007, which set a three-month shortened statutory period to respond. In the apparent absence of a timely filed response, the application was held abandoned on May 29, 2007. A Notice of Abandonment was mailed on October 16, 2007.

Petitioner asserts that he filed a timely reply to the nonfinal Office action via facsimile transmission on June 28, 2007. In support of the assertion, petitioner supplied copies of the reply in the form of an amendment, accompanied by a cover sheet authorizing the USPTO to charge any necessary fees to the Deposit Account. The amendment included a certificate of facsimile transmission under 37 CFR 1.8 dated June 28, 2007, signed by A. Urbancik. Additionally, petitioner provided a Statement under 37 CFR 1.8(b)(3) by Angie Urbancik, a copy the sending unit's transmission report, and the USPTO's Auto-Reply Facsimile Transmission, acknowledging receipt of 17 pages (including the Fax Transmittal Sheet) in USPTO on June 28, 2007.

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

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement, which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

In view of the above, the required reply is considered timely filed pursuant to 37 CFR 1.8. Accordingly, the petition under 37 CFR 1.181 is **granted** and the holding of abandonment is **withdrawn**. The application will be restored to pending status.

As the application was not in fact abandoned, the petition under 37 CFR 1.137(b) is **dismissed** as moot. The \$1,540.00 petition fee is unnecessary and will be refunded to the Deposit Account. Additionally, the Office finance records reveal that the USPTO mistakenly charged the Deposit Account twice in the amount of \$120.00 for an extension of time for response within the first month on June 28, 2007, and again on October 24, 2007. The overcharge of \$120.00 on October 24, 2007, will be refunded to the Deposit Account.

This matter is being referred to Technology Center Art Unit 2624 for review of the amendment filed on October 24, 2007.

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

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PROMEX TECHNOLOGIES, LLC
3049 HUDSON STREET
FRANKLIN IN 46131

In re Application of: :
HANCOCK, JOHN :
Serial No.: 10/776,750 :
Filed: Feb. 11, 2004 :
Docket: P-3563 :
Title: SINGLE-HANDED BIOPSY SYSTEM :

Withdrawal Holding of
Abandonment

Art Unit 3736

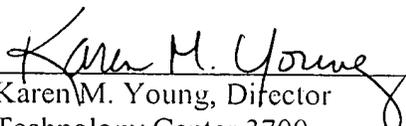
This application is before the Director of TC 3700 for reconsideration of the Notice of Abandonment mailed Aug. 16, 2006 for failure to respond to the Office Action mailed Jan. 9, 2006.

A review of the file indicates that a request for a three-month extension of time and a response were timely filed on July 10, 2006. The authorization to charge any extension of time to deposit account was given on page 1 of the amendment after first action.

In view of the above, the Notice of Abandonment mailed Jan. 9, 2006 is in error and is hereby vacated. The holding of abandonment has been withdrawn. This application has been forwarded to the examiner for appropriate action.

The application was being forwarded to the Supervisory Patent Examiner of Art Unit 3736 for further process. Should applicant have any further questions, she is invited to contact TC 3700 SPRE Henry Yuen at 571-272-4856.

Summary: The holding of abandonment has been withdrawn.



Karen M. Young, Director
Technology Center 3700



GOLDSTEIN LAW OFFICES, P.C.
2071 CLOVE ROAD - 204
STATEN ISLAND NY 10304

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OFFICE OF PETITIONS

In re Application of	:	
TJ CHIN et. al.	:	
Application No. 10/776,816	:	DECISION ON PETITION
Filed: February 11, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 15578	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2005, to revive the above-identified application.

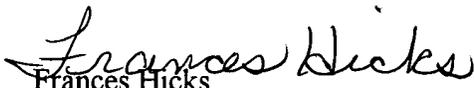
The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee in a timely manner in reply to the Notice of Allowance and Fee(s) Due, mailed April 6, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 7, 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 of \$750; 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 Amelia Au at (571) 272-7414.

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


 Frances Hicks
 Lead Petitions Examiner
 Office of Petitions



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Bayer Material Science LLC
100 Bayer Road
Pittsburgh PA 15205

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OFFICE OF PETITIONS

In re Application of :
Warth et al. : DECISION ON PETITION
Application No. 10/776,819 :
Filed: June 10, 2004 :
Attorney Docket No. Mo-7019N/LeA :
33,428-N :

This is a decision on the petition under 37 CFR 1.182, filed June 10, 2004. It appears from the petition that applicants are requesting that the above-identified application be accorded the later filing date of June 10, 2004, the date omitted pages 13-15 of the specification were filed with the United States Patent and Trademark (Office).

On February 11, 2004, applicants deposited the above-identified application. However, on May 10, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date of February 11, 2004, and advising applicants that pages 13-15 of the specification appeared to have been omitted from the application.

In response, on June 10, 2004, applicants submitted the present petition, an authorization to charge the deposit account for the petition fee, and a copy of pages 13-15 of the specification, and a new Combined Declaration and Power of Attorney. Applicants admit that pages 13-15 were inadvertently omitted from the copy of the application filed on February 11, 2004.

Accordingly, the petition is granted.

The \$130 petition fee will be charged to Deposit Account No. 13-3848, as authorized by applicants.

The Office of Initial Patent Examination is directed **to process the application with a filing date of June 10, 2004**, using the application papers submitted on February 11, 2004, and pages 13-15 of the specification submitted on June 10, 2004.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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A PROFESSIONAL ASSOCIATION
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GAINESVILLE, FL 32614-2950

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OFFICE OF PETITIONS

In re Application of :
Chelsea Samo-Lipman :
Application No. 10/776,830 :
Filed: February 11, 2004 :
Attorney Docket No. LIP-101XC1 :

ON PETITION

This is a decision in response to the petition, filed May 22, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

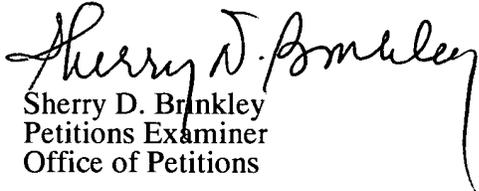
The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to an Office action mailed November 17, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$750.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2876 for consideration of the amendment filed May 22, 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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2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

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OFFICE OF PETITIONS

In re Reissue Application of :
Ronald R. WOLLER et al. :
Application No. 10/776,845 :
Filed: February 11, 2004 :
Attorney Docket No. 8S08.1-190 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 27, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 28, 2008. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of a Request for Continued Examination (RCE) and fee of \$ 810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$ 1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3634 for processing and for appropriate action by the Examiner in the normal course of business.


David Buccì
Petitions Examiner
Office of Petitions



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P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
Nagaraj Jayanth, et al. :
Application No. 10/776,856 : DECISION GRANTING PETITION
Filed: February 11, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0315-510/COD :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 17, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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



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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant : Nagaraj Jayanth : DECISION ON REQUEST FOR
Patent Number : 7647783 : RECALCULATION of PATENT
Issue Date : 01/19/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/776,856 : 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 **259** 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.



**HARNES DICKEY & PIERCE
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303**

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AUG 01 2005

OFFICE OF PETITIONS

In re Application of :
William Gatling et al :
Application No. 10/776,857 :
Filed: February 11, 2004 :
Attorney Docket No. 4731-003/COD :

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed July 29, 2005, which is being treated under 37 CFR 1.313 (c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 28, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 3744 for processing of the request for continued examination under 37 CFR 1.114.

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

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



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Date : August 1, 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 Gatling et al
Application No. : 10/776,857
Filed : February 11, 2004

The above-identified application has been assigned Patent No. 6,925,817 and an issue date of August 9, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of August 9, 2005:

"All reference to Patent No. 6,925,817 to William Gatling et al of Woodstock, GA for PRODUCT SIMULATING PROBE AND METHOD appearing in the Official Gazette of August 9, 2005 should be deleted since no patent was granted."

Wan Layton
Wan Layton

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

cc: Paul Harrison; Crystal Park 3, Suite 441 (FAX-703-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-910 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane Davis (CDS), CM1-6A07
Tamara K. Greene, PK3-910



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120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of :
Michael Brauss :
Application No. 10/776,877 : DECISION ON PETITION
Filed: 11 February, 2004 :
For: REMOVABLE FILTER HOLDER :
AND METHOD :

This is a decision on the petition filed on 21 September, 2006, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 July, 2006, for failure to timely submit the issue and publication fees in response to the

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

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

Notice of Allowance and Fee(s) Due mailed on 13 April, 2006, which set a three (3) month statutory period for reply. A fee(s) transmittal form was filed on 17 July, 2006 (certificate of mailing date 13 July, 2006), containing authorization to charge the issue and publication fees to counsel's deposit account, but the deposit account contained insufficient funds to charge the fees, so the application became abandoned. Notice of Abandonment was mailed on 17 August, 2006.

The issue and publication fees have been received.

The application is forwarded to the Technology Center for treatment of the amendment under 37 CFR 1.312 filed on 12 July, 2006.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Kenneth C. Brooks
Legal Department
Molecular Imprints, Inc.
P. O. Box 81536
Austin, TX 78708-1536

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AUG 05 2004

OFFICE OF PETITIONS

In re Application of :
Carlton G. Willson, et al. :
Application No. 10/776,881 : **DECISION DISMISSING**
Filed: February 11, 2004 : **PETITION**
Attorney Docket No. PA84/UTS-37-03 :

This is a decision on the petition filed June 7, 2004, requesting that the above-identified application be accorded a filing date of February 11, 2004, with an indication that page 21 of the specification was present on filing.

The petition is **DISMISSED**.

The application was filed on February 11, 2004. The specification included a written description containing pages 1-20 and an abstract page (page 22). No page number 21 was filed. Accordingly, the Office of Initial Patent Examination mailed a Notice of Omitted Items ("Notice") on May 28, 2004, stating that the application had been accorded a filing date of February 11, 2004, but that page 21 appeared to have been omitted.

In reply to the Notice, petitioner has filed the present petition arguing that page 21 was, in fact, present upon the filing of the application and that the application should include 25 claims instead of 22, as indicated on the application filing receipt. Since the Office does not have page 21 of the specification, claims 23 to 25 were not recorded in the application. In support, petitioner has provided a copy of the application transmittal letter, with an authorization of payment for five (5) additional claims. Petitioner has also provided a copy of an Express Mail label showing the application papers were deposited with the U. S. Postal Service ("USPS") on February 11, 2004, and a copy of a stamped postcard receipt, with a notation from the USPTO stating, "no page 21 of specification."

The arguments are not persuasive. The USPTO ("Office") file is the official record of the papers originally filed in this application. A review of the official file record reveals that page 21 of the specification is not present in the file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The copy of the application transmittal sheet, which suggests that 22 pages of specification were filed and an

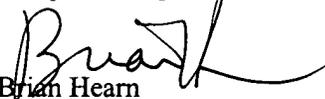
authorization to charge the deposit account for five (5) additional claims, are not more substantial than the Official record. The application transmittal sheet does not provide more weight than the official record of what was actually mailed to the Office on February 11, 2004. Furthermore, the mere fact that the application papers were deposited with the USPS does not corroborate the allegation that page 21 accompanied those application papers. Indeed, a USPS employee would not be able to attest to what papers were placed in the Express Mail envelope. For that reason, the evidence pertaining to the Express Mail procedures under 37 CFR 1.10 bears no relevance to the situation at hand. As set forth in MPEP 503, "a postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." The additional evidence which petitioner has provided, namely the postcard receipt, clearly shows that page 21 of the specification was not present on filing. Therefore, the postcard receipt does not serve as *prima facie* evidence of receipt in the USPTO of the missing page 21. In view thereof, the application filing receipt will not indicate that page 21 of the specification, including claims 23-25, was present on filing.

Nevertheless, petitioner may submit the omitted page 21 by filing an amendment prior to the first Office action since the specification contains a proper incorporation by reference statement. MPEP 201.06(c)(B) states:

"If a continuation or divisional application as originally filed is entitled to a filing date despite the omission of a portion of the prior application(s), applicant will be permitted to add the omitted material by way of an amendment provided a statement was included in the application as originally filed that incorporates by reference the prior application(s). If the application as originally filed includes a proper incorporation by reference of the prior application(s), an omitted specification page(s) and/or drawing figure(s) identified in a "Notice of Omitted Item(s)" may be added by way of an amendment provided the omitted item(s) contains only subject matter in common with such prior application(s). In such case, applicant need **not** respond to the "Notice of Omitted Item(s)." Applicant should submit the amendment adding the omitted material prior to the first Office action to avoid delays in the prosecution of the application. See MPEP § 601.02(d) and § 601.01(g)."

The application file is being referred to the Office of Initial Patent Examination for further processing of the application papers without the omitted page 21 and without claims 23-25.

Telephone inquiries concerning this matter may be directed to Marianne Morgan at (703) 306-3475.


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



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AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant : Muneib Minhazuddin : DECISION ON REQUEST FOR
Patent Number : 7643414 : RECALCULATION OF PATENT
Issue Date : 01/05/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/776,894 : 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 **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



DECHERT LLP
P.O. BOX 390460
MOUNTAIN VIEW CA 94039-0460

MAILED

MAR 24 2010

OFFICE OF PETITIONS

In re Application of :
Hansen et al. :
Application No. 10/776934 : DECISION ON APPLICATION
Filing or 371(c) Date: 02/10/2004 : FOR PATENT TERM ADJUSTMENT
Attorney Docket Number: :
366929-018US (396515) :

This is a decision on the “APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b), filed June 29, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is 864 days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction (1) based upon an assertion that the Office miscalculated a four month adjustment incurred by the Office, and (2) on the basis that the Office will take in excess of three years to issue this patent. Applicants also disagree with the Office’s failure to calculate any delay with respect to an Amendment filed by applicants pursuant to 37 CFR 1.312.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment (“PTA”) under 37 CFR 1.705(b), as it relates to the Office’s miscalculation of a four (4) month delay incurred by the Office in its non-final Office action, mailed April 17, 2007, pursuant to 37 CFR 1.702(a)(2) is hereby **DISMISSED**.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment (“PTA”) under 37 CFR 1.705(b), 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**.

BACKGROUND

On April 17, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days.

**ON PETITION UNDER 37 CFR 1.705(b)
REQUESTING RECONSIDERATION OF THE PERIOD OF ADJUSTMENT
PURSUANT TO 37 CFR 1.702(a)(2)**

On June 29, 2009, applicants timely submitted the present request for review of patent term adjustment¹. Applicants do not dispute the adjustment to date of 101 days. Further, applicants do not dispute the reductions to date of 92 days; 158 days; 86 days; 87 days and 50 days attributed to applicant pursuant to 37 CFR §§ 1.704(b) and 1.704(c)(7). Applicants, however, assert that an entitlement to a period of adjustment of 322 days of Office delay in failing to mail an action under 35 U.S.C. 132 not later than four months after a reply under 35 U.S.C. 111 was filed.

In this regard, applicants provide that on January 20, 2006, applicants filed a reply under 35 U.S.C. 111, including a reply to a Restriction Requirement, however, the Office failed to respond to applicants reply until April 17, 2007, or 322 days after the date that is four months after the reply of January 20, 2006 was filed.

Applicants arguments have been carefully considered. A review of the application file history reveals that the non-final Office action mailed April 17, 2007, addressed claims amended by applicants with the filing of the March 15, 2007 amendment. As such, the non-final Office action was timely pursuant to 37 CFR 1.702(a)(2)².

**ON PETITION UNDER 37 CFR 1.705(b)
REQUESTING RECONSIDERATION OF THE PERIOD OF ADJUSTMENT
PURSUANT TO 37 CFR §§ 1.702(c)(10), 37 CFR 1.702(b) and 1.703(b)**

Applicants disagree with the Office's failure to calculate any delay with respect to the Amendment filed by Applicants pursuant to 37 CFR 1.312. Applicants also assert an entitlement to a period of patent term adjustment pursuant to 37 CFR §§ 1.702(b) and 1.703(b) due to examination delay equal to the number of days in the period beginning on the day after the date that is three years after February 10, 2004, when the above-referenced application was filed under 35 U.S.C. § 111(a) (i.e. February 11, 2007), and ending on the date the patent is issued, not

¹ Office records show that the Issue Fee payment was received in the Office on June 29, 2009.

² The response filed January 20, 2006, was not fully responsive to the Restriction Requirement, mailed July 20, 2005. Applicants were so notified in a Notice of Non-Compliant Amendment, mailed April 20, 2006. Applicants filed a "Second Response to Restriction Requirement," on June 27, 2006, which was also non-compliant. The Office mailed a Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice"), on September 19, 2006. Applicants reply to the Notice, filed March 15, 2007, amended claims 153, 160-165 and 167-168, in compliance with the Notice mailed September 19, 2006. The Office action mailed April 17, 2007, addressed, *inter alia*, claims 153, 160-165 and 167-168, which were amended in the March 15, 2007 amendment.

Moreover, applicants agree with the Office's calculation of delays pursuant to 37 CFR 1.704(c)(7), in connection with the filing of the responses on June 27, 2006; of 158 days and 86 days in connection with the filing of the amendments on June 27, 2006 and March 15, 2007 respectively. Application for PTA at p.4. 37 CFR 1.704(c)(7) reduces the period of reduction for the submission of a reply having an omission, which ends on the date that the reply or other paper correcting the omission was filed.

including several categories of exceptions stated in 35 U.S.C. § [1]54(b)(1)(B)(i)-(iii) (“3 Year Delay”).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office’s failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee³.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is zero (0) days (adjustments totaling 101 days less reductions totaling 473 days).

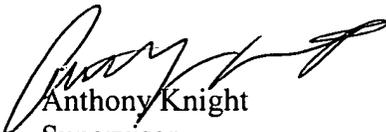
The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

³ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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



Anthony Knight
Supervisor
Office of Petitions



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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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MAY 11 2006

OFFICE OF PETITIONS

In re Application of :
Beaman et al. :
Application No. 10/776,945 :
Filed: February 10, 2004 :
Attorney Docket No. P1913-C2/522C-2 :

ON PETITION

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed March 31, 2006.

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

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed February 10, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on May 11, 2005. A Notice of Abandonment was mailed on September 7, 2005.

Petitioner asserts that the non-final Office Action mailed on February 10, 2005 was never received. A review of the record indicates the non-final Office Action was mailed to an incorrect correspondence address. Petitioner submitted a change of correspondence address on November 15, 2004. A review of the record shows that a copy of the change of correspondence address was received but not entered. Thus, the non-final Office Action was improperly mailed.

This application is being forwarded to Art Unit 2677 for re-mailing of the non-final Office Action to the current correspondence 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



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NOVARTIS RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE,
SUITE E225
SAN DIEGO CA 92121-1127

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OFFICE OF PETITIONS

In re Application of :
Shifeng Pan et al :
Application No. 10/776,946 : DECISION GRANTING PETITION
Filed: February 11, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P1091US30 :

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of September 28, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions



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GRAY, PLANT, MOOTY, MOOTY & BENNETT, P.A.
P.O. BOX 2906
MINNEAPOLIS, MN 55402-0906

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DEC 04 2009

OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,066,417 :
Issue Date: June 27, 2006 :
Application No. 10/776,950 :
Filed: February 11, 2004 :
Attorney Docket No. 31853.0008 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

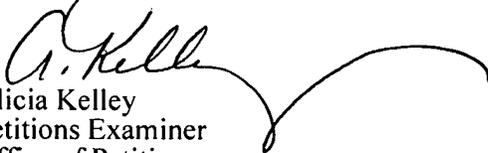
The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

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.

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.



Alicia Kelley
Petitions Examiner
Office of Petitions

cc: MICHAEL A. BONDI
DICKE, BILLIG & CZAJA, PLLC
100 S. FIFTH ST.
SUITE 2250
MINNEAPOLIS, MN 55402



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DR. ANDREW J. LEON
PFIZER, INC.
575 MARYVILLY CENTRE DRIVE, 5TH FL
ST. LOUIS, MO 63141

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of :
John Frederick Braganza et al :
Application No. 10/776,953 :
Filed: February 11, 2004 :
Attorney Docket No. 17390 (PC25332A) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

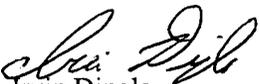
The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 13, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 14, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$2160 extension of time submitted with the petition on June 21, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

This matter is being referred to Technology Center AU 1625 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Philip B. Polster, II
P.O. Box 1027
St. Louis, MO 63006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/7/2006

TO SPE OF : ART UNIT 3700 (3728)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,923,706

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location 7580 - Tel. No. 305-8309

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

Ok to enter changes to claims as requested in C of C?

Ernest C. White, LIE (703) 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Derris Banks

Digitally signed by Derris Banks
DN: cn=Derris Banks, ou=US, o=SPE, ou=Art Unit 3728,
email=Derris.Banks@uspto.gov
Reason: I am approving this document
Date: 2006.02.25 14:21:59 -0507

SPE

Art Unit



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Paper No.

JONES, DAY, REAVIS & POGUE
901 LAKESIDE AVENUE
NORTH POINT
CLEVELAND, OH 44114

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NOV 17 2004

OFFICE OF PETITIONS

In re Application of: :
Hongjun Zhang and Ashok C. Patel :
Application No. 10/776,986 : DECISION DISMISSING
Filed: February 11, 2004 : PETITION UNDER
Title of Invention: APPARATUS AND : 37 CFR 1.47(a)
ASSOCIATED METHOD, FOR FACILITATING:
CONTROL OF CONTROL SIGNALING :
PERFORMED BY A MOBILE NODE OPERABLE:
IN A RADIO COMMUNICATION NETWORK :

This is in response to the Petition Under 37 CFR § 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 11, 2004, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on May 12, 2004, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant wherein Applicant avers that the nonsigning inventor cannot be found or reached after diligent effort. This assertion is supported by a

Declaration of David B. Cochran ("Cochran Declaration") wherein Applicant avers that after sending inventor Zhang a copy of the Declaration via Fed Ex, and having the package returned with an indication that inventor Zhang no longer resided at his last known address, "[t]he assignee contacted several of Mr. Zhang's associates in an attempt to ascertain his whereabouts, but was unsuccessful."

Applicable Law

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

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that *fully describes the exact facts* which are relied on to establish that a diligent effort was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. See, MPEP § 409.03(d).

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

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

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

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

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


Derek L. Woods
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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NORTH POINT
CLEVELAND, OH 44114

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FEB 02 2005

OFFICE OF PETITIONS

In re Application of:	:	
Hongjun Zhang and Ashok C. Patel	:	
Application No. 10/776,986	:	DECISION GRANTING
Filed: February 11, 2004	:	PETITION UNDER
Title of Invention: APPARARUS AND ASSOCIATED METHOD, FOR FACILITATING: CONTROL OF CONTROL SIGNALING PERFORMED BY A MOBILE NODE OPERABLE: IN A RADIO COMMUNICATION NETWORK	:	37 CFR 1.47(a)

This is in response to a Petition Under 37 CFR 1.47, filed November 12, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Hongjun Zhang, refuses to join in the application.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

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



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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Hongjun Zhang
271 EIWO COURT
UNIT 201
WATERLOO, ONTARIO
CANADA

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FEB 02 2005

LETTER OFFICE OF PETITIONS

In re Application of: :
Hongjun Zhang and Ashok C. Patel :
Application No. 10/776,986 :
Filed: February 11, 2004 :
Title of Invention: APPARARUS AND :
ASSOCIATED METHOD, FOR FACILITATING:
CONTROL OF CONTROL SIGNALING :
PERFORMED BY A MOBILE NODE OPERABLE:
IN A RADIO COMMUNICATION NETWORK :

Dear Mr. Zhang:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).


Derek L. Woods
Attorney/Advisor
Office of Petitions

CC: JONES, DAY, REAVIS & POGUE
901 LAKESIDE AVENUE
NORTH POINT
CLEVELAND, OH 44114



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.

MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

COPY MAILED

SEP 15 2004

OFFICE OF PETITIONS

In re Application of: :
Norbert Brun, Pierre Albou, and :
Antoine DeLamberterie :
Application No. 10/776,988 : DECISION GRANTING
Filed: January 28, 2004 : PETITION UNDER
Title of Invention: A METHOD OF : 37 CFR 1.47(a)
PROVIDING MODULATED, ILLUMINATION :
OF A ROAD, AND A VEHICLE HEADLIGHT :
FOR PERFORMING THIS SAID METHOD :

This is in response to a Petition under 37 CFR 1.47(a), filed August 11, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

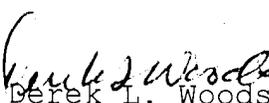
The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Norbert Brun, cannot be found or reached after diligent effort.

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

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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


Derek L. Woods
Petitions Attorney
Office of Petitions



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Alexandria, VA 22313-1450
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MR. NORBERT BRUN
7 ALÉE JEHAN de BRIE
77600 GUERMANTES
FRANCE

In re Application of: :
Norbert Brun, Pierre Albou, and :
Antoine DeLamberterie :
Application No. 10/776,988 : LETTER
Filed: January 28, 2004 :
Title of Invention: A METHOD OF :
PROVIDING MODULATED, ILLUMINATION :
OF A ROAD, AND A VEHICLE HEADLIGHT :
FOR PERFORMING THIS SAID METHOD :

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SEP 15 2004

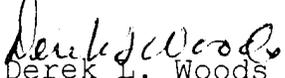
OFFICE OF PETITIONS

Dear Mr. Brun:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).


Derek L. Woods
Petitions Attorney
Office of Petitions

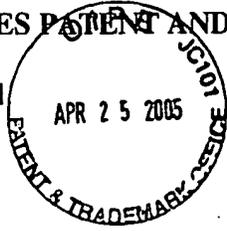
cc: MORGAN & FINNEGAN, L.L.P.
345 PARK AVENUE
NEW YORK, NY 10154

Approved
5/12/05
CJ

LEW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Johnson et al
Serial No.: 10/776,997
Filed: 2/11/04
For: Providing a Low Pressure Condition in a Wellbore Region



Attorney Docket No.: 22.1434 DIV1
Art Unit: 3672
Examiner: Hoang C. Dang

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

**Petition To Correct Inventorship of a Nonprovisional Application
Under (37 C.F.R. § 1.48(a))**

In view of the papers filed February 11, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of the following inventor:

- 1. Ian C. Walton

Please charge the petition fee of \$130 to Deposit Account Number 50-0457. No additional fees are thought to be necessary. However should such fees be deemed necessary, please charge any fees and credit any overpayments to Deposit Account No. 50-0457.

Please stamp and return the enclosed postcard to acknowledge receipt of these documents.

Bryan P. Galloway, Reg. No. 50,312

Intellectual Property Counsel
Schlumberger Reservoir Completions Center
14910 Airline Road
Rosharon, Texas 77583
Phone: (281)285-5720; Fax: (281)285-5537



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

BELL, BOYD & LLOYD LLC
P. O. Box 1135
Chicago, IL 60690-1135

Mail Date: 04/21/2010

Applicant	: Anthony M. Singer	: DECISION ON REQUEST FOR
Patent Number	: 7625280	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/777,011	: 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 **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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Alexandria, VA 22313-1450
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MAR 19 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Meghan M. Barni	:	
Application No. 10/777,052	:	ON PETITION
Filed: February 9, 2004	:	
Attorney Docket No. None	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 2009, to revive the above-identified application.

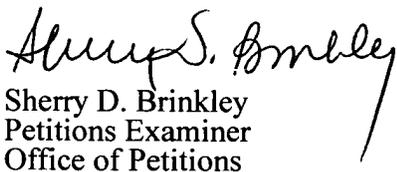
The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 14, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on February 15, 2009. A Notice of Abandonment was subsequently mailed on June 15, 2009.

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

This application is being referred to Technology Center AU 3624 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.

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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P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 30 2004

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

In re Application of :
Simard et al. :
Serial No.: 10/777,053 : PETITION TO MAKE SPECIAL
Filed: February 10, 2004 :
Attorney Docket No.: MANNK.022C1 :

This is in response to applicants' petition filed August 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to HIV/AIDS and cancer. The \$130.00 petition fee as required by 37 CFR 1.17(h) will be charged to applicant's Deposit Account No. 11-1410, as directed.

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

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 3, 2006

TO SPE OF : ART UNIT 1756

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/777060 patent No.: 7,115,344

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

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

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

Magdalene Talley

Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

MARK F. HUFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Mark F. Huff
SPE

1756
Art Unit



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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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AUG 22 2006

OFFICE OF PETITIONS

In re Patent No. 60188-773

Issue Date: January 3, 2006

Application No. 10/777,068

Filed: February 13, 2004

Attorney Docket No. **60188-773**

ON PETITION

This is a decision on the "Petition to Correct Assignee Data under 37 CFR 1.183" filed March 22, 2006, which is being treated as a request under 37 CFR 3.81(b)¹ to add a second assignee to the front page of the above-identified patent by way of a Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Deposit account 50-0417 will be charged \$100.00 for the fee for the Certificate of Correction.

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


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

¹ See *Official Gazette* of June 22, 2004.



**S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE WI 53403-2236**

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MAY 09 2005

In re Application of :
James R. Crapser :
Application No. 10/777,079 :
Filed: February 13, 2004 :
Attorney Docket No. J-3894 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed May 6, 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 14, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on May 6, 2005, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Thomas R. Stiebel appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Stiebel desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Stiebel, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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

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

This matter is being referred to Technology Center Art Unit 3749 for processing of the request for continued examination under 37 CFR 1.114 filed May 6, 2005.



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

cc:
MCCRACKEN AND FRANK
200 W. ADAMS
SUITE 2150
CHICAGO, IL 60606



Finnegan, Henderson, Farabow, Garrett & Dunner LLP
1300 I Street, NW
Washington, DC 20005

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OCT 22 2004

In re Application of :
Fukomoto et al. :
Application No. 10/777,106 :
Filed: February 13, 2004 :
Attorney Docket No. 01198.0276-02 :

OFFICE OF PETITIONS

ON PETITION

This is a decision in response to the paper entitled "Response to Notice of Incomplete Nonprovisional Application" filed July 7, 2004, which is being treated as a petition to accord the above-identified application a filing date of February 13, 2004.

On February 13, 2004, the application was filed.

On May 7, 2004, the Office of Initial Patent Examination mailed a Notice stating in part that drawings were missing and that a filing date would be accorded upon receipt of drawings.

In response, the present petition alleges that identical drawings were included as part of application no. 10/253,533 which was incorporated by reference,

The Office allows an applicant to rely upon an incorporation by reference when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on February 13, 2004, albeit in the file of another application. ']

In view of the above, the petition is **granted**. The copy of the drawings submitted with the petition will be used for examination purposes.

A petition fee will be charged to petitioner's deposit account because petitioner has failed to establish drawings accompanied the application papers. The last portion of MPEP 513 states,

Where there is a dispute as to the contents of correspondence submitted to the Office (e.g., an applicant asserts that three sheets of drawings were submitted under 37 CFR 1.10 with an application, but the Office records indicate receipt of only two sheets of drawings with the application) ... The Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g. a postcard receipt

Although a postcard receipt has been submitted, the postcard is not properly itemized. See MPEP 503.

The Office of Initial Patent Examination will be informed of the instant decision and will process the application with a filing date of February 13, 2004, using the papers filed on that date along with the drawings filed on July 7, 2004.

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

A handwritten signature in black ink, appearing to read 'C. Brantley', written in a cursive style.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

JUN 08 2006

TECHNOLOGY CENTER 2100

In re Application of:
Y. EGUCHI et al.
Application No. 10/777,107
Filed: February 13, 2004
For: STORAGE SUBSYSTEM

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petitions, filed on 18 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 18 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.

A handwritten signature in black ink, appearing to read "Vincent N. Trans", written over a horizontal line.

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



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

SEP 15 2005

LEONG C. LEI
PMB #1008, 1867 Ygnacio Valley Road
Walnut Creek CA 94598

In re Application of
Chiang-Lung Cheng :
Application No. 10/777,111 :
Filed: February 13, 2004 :
For: PROTECTION HOOD FOR :
AUTOMOBILE RADIATORS :

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on March 30, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on June 04, 2004. A Notice of Abandonment was mailed on January 11, 2005.

Applicant's petition indicates that the Office action was never received. In support thereof applicant has provided a copy of the docket record. The support provided appears to be nothing other than a copy of a file jacket. This is not considered to be a docket record.

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) 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.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date at and around Septemeber 04, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office action mailed June 04, 2004 was not received or placed in the file for application 10/777,111. A complete docket record with a copy of the list of all responses in the practitioner's office with the due date at and around September 04, 2004 is required.

Petitioner's evidence of non-receipt of the Office action mailed June 04, 2004 is insufficient to withdraw the holding of abandonment, and 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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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

KJD/rjc 08/03/05



LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of :
Chiang Lung Cheng :
Application No. 10/777,111 : **DECISION ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. FP9997 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 25, 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 June 4, 2004. 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 5, 2004. A Notice of Abandonment was mailed on January 11, 2005. A petition filed under 37 CFR 1.181 on March 30, 2005 was dismissed on September 15, 2005

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted on July 19, 2005 .

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions



**NIXON PEABODY
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128**

**COPY MAILED
JUN 21 2006
OFFICE OF PETITIONS**

In re Application of :
Shigeharu Monoe et al :
Application No. 10/777,117 : **ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. 740756-2714 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 16, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.


Wan Laymon
Petitions Examiner
Office of Petitions

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



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SLATER & MATSIL LLP
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

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OFFICE OF PETITIONS

In re Application of :
Till Schloesser et al :
Application No. 10/777,128 : DECISION GRANTING PETITION
Filed: February 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. INF-135 :

This is a decision on the petition, filed April 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

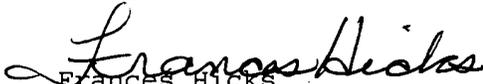
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 16, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr9\777128.wpd

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: “The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. **Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).**”



Foley and Lardner LLP
Suite 500
3000 K Street NW
Washington D.C. 20007

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In re Application of	:	
Joseph Schlessinger et al.	:	
Application No. 10/777,145	:	DECISION ON PETITION
Filed: February 13, 2004	:	TO WITHDRAW
Attorney Docket No. 034536-1211	:	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 10, 2006.

The request is **APPROVED**.

A review of the file record indicates that the attorneys and/or agents associated with Customer Number 30543: (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, the attorneys and/or agents associated with Customer Number 30543 has/have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

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

There is no outstanding Office action at this time.

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


 David Bucci
 Petitions Examiner
 Office of Petitions

cc: **Joseph Schlessinger**
50 Rock Hill Road
Woodbridge, CT 06525

cc: **David A. Jackson**
Klauber & Jackson L.L.C.
411 Hackensack Avenue, 4th Floor
Hackensack, NJ 07601



SIDLEY AUSTIN LLP
ATTN: DC PATENT DOCKETING
1501 K STREET, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of :
Frenkil : DECISION ON APPLICATION
Application No. 10/777,184 : FOR PATENT TERM ADJUSTMENT
Filed: February 13, 2004 :
Atty. Dkt. No.: 24988-00101 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed January 8, 2008. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby GRANTED.

The correct determination of PTA at the time of the mailing of the Notice of Allowance is 363 days.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed October 17, 2007, indicated a patent term adjustment (PTA) to date of 261 days. The instant application for PTA was timely filed January 8, 2008. Applicant argues that the application is entitled to an overall adjustment of 363 days.

Applicant does not contest the adjustment of 363 days accorded under 37 CFR 1.702(a)(1).

Applicant contests the reduction of 125 days in connection with the reply to the restriction requirement mailed May 4, 2006. Applicant argues that the correct reduction in this regard is four days.

A review of the record reveals that the reply to the restriction requirement was received August 8, 2006, as substantiated by the copy of the return postcard to this effect contained in the record.

Thus, the adjustment is properly reduced four days in accordance with 37 CFR 1.704(b). The reduction commenced August 5, 2006, the day after the date that is three months after the date that the restriction requirement was mailed, and ended August 8, 2006, the date that the reply was filed.

Applicant further argues that the application is entitled to an additional adjustment of 77 days in connection with the non-final Office action mailed February 23, 2007.

A review of the record reveals that applicant is correct. In accordance with 37 CFR 1.702(a)(2), the application is entitled to a further adjustment of 77 days. The adjustment commenced December 9, 2006, the day after the date that is four months after the date that the reply to the restriction requirement was filed, and ended February 23, 2007, the date that the non-final Office action was mailed.

Applicant points out that the adjustment should be reduced 96 days in connection with the reply to the non-final Office action mailed February 23, 2007.

A review of the record reveals that applicant is correct. The adjustment is properly reduced 96 days in accordance with 37 CFR 1.704(b). The reduction commenced May 24, 2007, the day after the date that is three months after the date that the non-final Office action was mailed, and ended August 27, 2007, the date a reply thereto was filed.

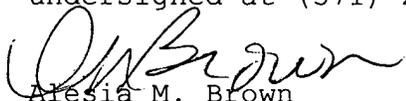
In view thereof, at the time of allowance, the application is entitled to an overall adjustment of 363 days (adjustments totaling 463 days less reductions totaling 10 days), as argued by applicant.

Receipt is hereby acknowledged of the required PTA application fee of \$200.00.

Applicant is further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Sunday
Date: 6/14/2009**PALM INTRANET**

Time: 10:24:56

PTA Calculations for Application: 10/777184

Application Filing Date:	02/13/2004	PTO Delay (PTO):	386
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	125
Post-Issue Petitions:	0	Total PTA (days):	363
PTO Delay Adjustment:	102		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
68	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
67	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		96	
66	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	77		
65	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	125		
58	10/17/2007	MAIL NOTICE OF ALLOWANCE			
57	10/17/2007	MAIL EXAMINER'S AMENDMENT			
56	10/12/2007	ISSUE REVISION COMPLETED			
55	10/12/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
54	10/04/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
53	10/04/2007	DOCUMENT VERIFICATION			
52	10/01/2007	EXAMINER'S AMENDMENT COMMUNICATION			
51	10/01/2007	NOTICE OF ALLOWABILITY			
48	08/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	03/05/2007	MAIL NON-FINAL REJECTION			
45	09/26/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
40	03/05/2007	NON-FINAL REJECTION			
39	12/07/2006	MISCELLANEOUS INCOMING LETTER			
38	02/23/2007	DATE FORWARDED TO EXAMINER			
37	02/01/2007	RESPONSE AFTER NON-FINAL ACTION			
36	02/01/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	02/23/2007	MAIL NON-FINAL REJECTION			
30	02/20/2007	NON-FINAL REJECTION			

29	02/20/2007	DATE FORWARDED TO EXAMINER			
28	12/07/2006	RESPONSE TO ELECTION / RESTRICTION FILED		125	15
27	02/13/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
15	05/04/2006	MAIL RESTRICTION REQUIREMENT	386		-1
14	05/01/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
13	08/11/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	09/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	02/13/2004	REFERENCE CAPTURE ON IDS			
10.7	02/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	02/13/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	09/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	05/11/2004	APPLICATION RETURN FROM OIPE			
7	05/11/2004	APPLICATION RETURN TO OIPE			
6	05/10/2004	APPLICATION DISPATCHED FROM OIPE			
5	05/11/2004	APPLICATION IS NOW COMPLETE			
4	03/23/2004	CLEARED BY OIPE CSR			
3	03/23/2004	CASE CLASSIFIED BY OIPE			
2	03/17/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/13/2004	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | [Home page](#)



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NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314**

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OFFICE OF PETITIONS

In re Application of :
Timothy David Farnham et al :
Application No. 10/777,185 : **DECISION GRANTING PETITION**
Filed: February 13, 2004 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 248772US2CRL :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 21, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 21, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions

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



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Paper No. 20090128

MAILED: January 28, 2009

In re Application of

Komaki, et al.

Application No. 10/777,187

Filing Date: Feb. 13, 2004

For: METHOD AND APPARATUS FOR REFORMING
FUEL

DECISION ON PETITION

This is a decision on the petition under 37 CFR § 1.48(b) filed December 18, 2008.

On December 18, 2008, the present petition and a check for \$130.00 petition fee were filed. Petitioners request amendment of the inventorship to delete Katsumi Takahashi. A request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventor being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application. Petitioners request that the actual inventorship be given as Hideaki Komaki and Kunio Matsui.

A review of the record reveals that petitioner has complied with all the conditions in 37 CFR § 1.48(b). The petition is granted. A corrected filing receipt naming the actual inventors of the above-identified patent, namely, Hideaki Komaki and Kunio Matsui.

PETITION GRANTED



Alexa Neckel

Supervisory Patent Examiner

Art Unit 1795

Griffin & Szipi, PC
Suite PH-1
2300 Ninth Street, South
Arlington, VA 22204



NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203

In re: Winbom, Hakan :
Application No. 10/777,219 : **DECISION ON PETITION**
Filed: February 13, 2004 : **TO WITHDRAW THE**
For: MULTI SITE SOLUTION FOR : **HOLDING OF ABANDONMENT**
SECURITIES TRADING :

This is in response to the Status Inquiry received March 23, 2010 that will be treated as a Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a).

The petition is **GRANTED**.

A review of the application file shows that a requirement for restriction/election was mailed to the applicant on May 28, 2009 wherein a one-month shorten statutory period for reply was set. Since no response to the May 28, 2009 Office action was received and the six-month statutory period for response had expired, the application is abandoned, although a Notice of Abandonment has yet been mailed.

A further review shows that an Examiner's Interview Summary was mailed on June 29, 2009 wherein it was agreed that "the Election/Restriction filed by [the] Examiner on 5/28/2009 is hereby withdrawn." Since the interview summary unequivocally states that the restriction is "hereby withdrawn", there was no requirement for the applicant to respond to the Office action mailed May 28, 2009.

Accordingly, the application is returned to pending status and the application will be forwarded to the examiner for consideration of the Request for Continued Examination filed February 20, 2009 and prompt action on the merits.

Any questions concerning this communication should be directed to Kambiz Abdi, Supervisory Patent Examiner, at (571) 272-6702.

Wynn W. Coggins, Director
Technology Center 3600
(571) 272-5350

TL



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OFFICE OF PETITIONS

In re Patent No.

7,005,073

:

Application No. 10/777,259

:

DECISION ON PETITION

Filed: February 12, 2004

Issued: February 28, 2006

Attorney Docket No. 5853-418

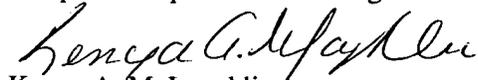
This is a decision on the petition under 37 CFR 1.182 to correct the name of a joint inventor named on the above-cited patent.

The petition is **dismissed**.

The instant petition was filed on March 16, 2006, to change the order of the joint inventors. It is noted that the petition was not filed until after the issue fee was paid. The subject application matured into United States Patent No. 7,005,073 on February 28, 2006, without the requested correction to the order of the inventors names. The order of the inventors names cannot be corrected by a petition under 37 CFR 1.182 because the application has matured into a patent. The petition is dismissed, accordingly.

Petitioner may file a request under 37 CFR 3.81 and a certificate of correction requesting the correction to the inventor's name. The fee for the request is \$130.00 and the fee for the certificate of correction is \$130.00.

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


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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OFFICE OF PETITIONS

In re Patent No. 7,005,073
Issue Date: February 28, 2006
Application No. 10/777,259
Filed: February 12, 2004
Attorney Docket No. 5853-418

:
:DECISION DISMISSING PETITION
:UNDER 37 CFR 1.182
:
:

This is a decision on the petition under 37 CFR 1.182 filed November 29, 2006, to change the order of inventorship in the above-identified patented file.

The petition is **dismissed**.

Judge Schall in *Fina Technology Inc. v. Ewen*, 60 USPO2d 1314 (CA FC 2001), stated:

Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Director¹ may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. Section 255 does not provide for action by a district court. Rather, the statute permits only the Director to issue a certificate of correction for a clerical error. Furthermore, the order of inventorship does not appear to be the type of mistake contemplated by §255. Examples of mistakes that fall under §255 typically include correcting a misspelled word or adding a prior art reference that was submitted to and discussed by the examiner but inadvertently omitted by the applicant on PTO Form 1449 for listing references. See *In re Arnott*, 19 USPO2d 1049, 1053 (Comm'r Pat. 1991). The order of inventors in the heading of a patent is taken by the PTO directly from the order in which the names appear in the original oath or declaration. Man. Pat. Exam. P., §605.04(f) (7th ed. rev. 1 2000). According to the Manual of Patent Examining

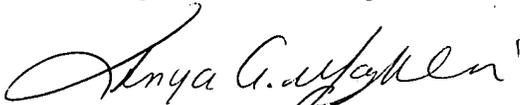
¹ Effective March 29, 2000, the title of the head of the Patent and Trademark Office ("PTO") was changed from "Commissioner" to "Director." Pub. L. No. 106-113, 113 Stat.1501A-582 (1999). Although the district court and the parties refer to the head of the PTO by using the title "Commissioner," we use the term "Director" to avoid confusion with the current statutory language.

Procedure, “no changes will be made [by the Director to the order of inventors] except when a petition under 37 C.F.R. 1.182 is granted.”² Id. In short, the order of inventors is not a clerical error contemplated by §255, and cannot be corrected in a judicial proceeding under that provision.

It is not problematic for district courts to lack the authority to correct the order of inventors because “the particular order in which the names appear is of no consequence insofar as the legal rights of the joint applicants are concerned.” Id. As we stated in *Fina I*, “if the inventors are properly named on the patent, *Fina* has no concerns about invalidity of the patent over inventorship problems.” 123 F.3d at 1471, 43 USPQ2d at 1940.

In view of the above, since the order in which the names appear on the printed patent is of no consequence insofar as the legal rights of the joint applicants are concerned, and since there was no clerical error as contemplated by 35 U.S.C. § 255, the petition under 37 CFR 1.182 to change the order of inventorship in the above-identified patent must be dismissed. Accordingly, no certificate of correction will be issued to reflect the desired order of inventorship.

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

² 37 C.F.R. §1.182 (2000) concerns situations that are not specifically provided for in other regulations and authorizes the Director to decide each case that arises in accordance with the merits of the situation.



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Rochester MN 55901-7829

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OFFICE OF PETITIONS

In re Application of :
Craig Marshall Darsow et al :
Application No. 10/777,262 : DECISION ON PETITION
Filed: February 12, 2004 :
Attorney Docket No. :
ROC920030333US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 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 August 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 3, 2006. Accordingly, the date of abandonment of this application is August 4, 2006. A Notice of Abandonment was mailed on September 7, 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) an adequate statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

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

A handwritten signature in cursive script, appearing to read "Frances Hicks".

Frances Hicks
Petitions Examiner
Office of Petitions



D. Randal Ayers
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

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OFFICE OF PETITIONS

In re Application of Lyu et al. :
Application No. 10/777,297 : Decision on Petition
Filing Date: February 12, 2004 :
Attorney Docket No. 5649-1206 :

This is a decision in response to the petition under 37 CFR 1.182 filed September 13, 2004.

The petition is **dismissed**.

The application was filed on February 12, 2004.

The transmittal sheet lists the first inventor's name as Gyu-ho Lyu.

The declaration filed February 12, 2004, lists the first inventor's name as Guy-ho Lyu.

The instant petition states the first inventor's name was misspelled on the original declaration. The petition requests the name be corrected from Guy-Ho Lyu to Gyu-Ho Lu. The petition is accompanied by a supplemental declaration listing the first inventor's name as Gyu-ho Lyu.

A request for reconsideration should be filed. The request should clearly state the correct spelling for the first inventor's name.

The Office notes the supplemental declaration indicates the inventor signed the declaration on September 1, 2003. However, the application was filed February 12, 2004. Signature dates are not required on a declaration. Therefore, rather than have the inventor file a new supplemental declaration, petitioner may simply state the date the supplemental declaration was signed was on or about September 1, 2004.

Translating a Korean name to English can be difficult. As a courtesy, the Office notes petitioner *may* wish to consult the Hangul conversion tool at <http://www.sori.org/hangul/>.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should be entitled "Renewed Petition under 37 CFR 1.182."

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

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

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

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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D. Randal Ayers
Myers Bigel Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627

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OFFICE OF PETITIONS

In re Application of Lyu et al. :
Application No. 10/777,297 : Decision on Petition
Filing Date: February 12, 2004 :
Attorney Docket No. 5649-1206 :

This is a decision in response to the renewed petition under 37 CFR 1.182 filed August 31, 2006.

The petition is **granted**.

Petitioner has demonstrated the correct spelling of the first inventor's name is:

Gyu-Ho Lu

Office records have been changed to correct the inventor's name.

As a courtesy, the Office notes assignment records list the inventor's name as Gyu-Ho Lyu. Petitioner may wish to file a corrected cover sheet. See MPEP 605.04(c).

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

Attached: 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
10/777,297	02/12/2004	2822	1392	5649-1206	17	45	5

CONFIRMATION NO. 5272

CORRECTED FILING RECEIPT

OC000000021265255

OC000000021265255

D. Randal Ayers
 Myers Bigel Sibley & Sajovec, P.A.
 P.O. Box 37428
 Raleigh, NC 27627

Date Mailed: 11/16/2006

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)

Gyu-Ho Lu, Gyeonggi-do, KOREA, REPUBLIC OF;
 Soon-moon Jung, Gyeonggi-do, KOREA, REPUBLIC OF;
 Sung-bong Kim, Gyeonggi-do, KOREA, REPUBLIC OF;
 Hoon Lim, Seoul, KOREA, REPUBLIC OF;
 Won-Seok Cho, Gyeonggi-do, KOREA, REPUBLIC OF;

Power of Attorney:

D Ayers-40493

Domestic Priority data as claimed by applicant**Foreign Applications**

REPUBLIC OF KOREA 2003-14387 03/07/2003

If Required, Foreign Filing License Granted: 05/11/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/777,297

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SEMICONDUCTOR DEVICES HAVING HIGH CONDUCTIVITY GATE ELECTRODES WITH CONDUCTIVE

LINE PATTERNS THEREON

Preliminary Class

257

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).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor	: Paul E. Share	Confirmation No.	5310
Appln. No.	: 10/777,299	Group Art Unit:	1732
Filed	: February 12, 2004	Examiner:	Matthew J. Daniels
Title	: Containers Having Barrier Properties and Method of Manufacturing the Same		
Docket No.	: 06-1694-0101		

PETITION FOR ONE-MONTH EXTENSION OF TIME

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

FILED VIA EFS-WEB

Pursuant to 37 C.F.R. 1.136(a), Applicant petitions for a one-month extension of time to respond to the Office Action dated November 2, 2006.

Respectfully submitted,

VALSPAR SOURCING, INC.

Date: February 21, 2007

By: 
Andrew A. DeMaster, Reg. No. 57326
1101 South Third Street
Minneapolis, MN 55415
Telephone: (612) 851-7281
Fax: (612) 375-7313



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

BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

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MAR 25 2005

OFFICE OF PETITIONS

**DECISION ACCORDING
STATUS UNDER 37 CFR 1.47(a)**

In re Application of
Roesler et al. :
Application No. 10/777,307 :
Filed: February 13, 2004 :
Attorney Docket No. 033275-423 :
For: Process for Strengthen Grain :
Boundaries of an Article Made :
From a Ni Based Superalloy :

This is a decision on the petition under 37 CFR 1.47(a), filed December 2, 2004.

The petition is **granted**.

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

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

Petitioner submitted \$130 for the petition fee. Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 was increased to \$200.¹ Therefore, \$70 has been charged to petitioner's deposit account.

The Office of Initial Patent Examination will be informed of the instant decision.

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


Charles Steven Brantley
Petitions Attorney
Office of Petitions

¹ See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).



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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Joachim Roesler
Dorothea-Erxleben-Strasse 57
Braunschweig, D38116
GERMANY

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MAR 25 2005

OFFICE OF PETITIONS

In re Application of
Roesler et al.
Application No. 10/777,307
Filed: February 13, 2004
Attorney Docket No. 033275-423
For: Process for Strengthen Grain
Boundaries of an Article Made
From a Ni Based Superalloy

Letter

Mr. Roesler:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers which are part of the file wrapper. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

General requests for information regarding the application should be directed to the File Information Unit at (703)308-2733.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: BURNS DOANE SWECKER & MATHIS L L P
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404



April 22, 2008

Joseph Herndon
McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

Patent No.: 7,030,690 *B2*
Application No.: 10/777323
Inventor(s): Mark Dvorak
Issued: April 18, 2006
Title: OPERATIONAL AMPLIFIER WITH SELECTABLE PERFORMANCE CHARACTERISTICS

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



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

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SEP 26 2008

OFFICE OF PETITIONS

In re Patent No. 7030690 :
Issue Date: 04/18/2006 :
Application Number: 10/777323 : **ON PETITION**
Filing Date: 02/12/2004 :
Attorney Docket Number: HONEYWELL NO. :
H0005845 :

This is a decision on the request under 37 CFR 3.81(b),¹ filed on August 15, 2008, to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Patentees request that the city and state of the assignee be changed from "Minneapolis, MN" to **-Morristown, NJ--**.

The Office notes that although the assignment document itself correctly captions the assignee's city and state, the Recordation Form Cover Sheet miscaptions the city and state as Minneapolis, MN. Therefore, it is recommended that petitioners submit a corrected cover sheet in accordance with MPEP 323.01 and 37 CFR 3.34.

The \$130.00 processing fee required under 37 CFR 1.17(h) will be charged to counsel's deposit account as authorized in the request.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.



Douglas I. Wood
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

November 13, 2005

Justin Liu
XILINX, INC.
2100 Logic Drive
San Jose, CA 95124

Patent No.: **7080300 B1**
Application No.: 10/777327
Inventor(s): **Nigel G. Herron, et al.**
Issued: July 18, 2006
Title: **TESTING A PROGRAMMABLE LOGIC DEVICE WITH EMBEDDED FIXED LOGIC USING A SCAN CHAIN**

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.117(h) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

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

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

By fax: (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 & Certificates
of Correction Branch
(703) 308-9390 ext 113 or (703) 308-8309



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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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

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MAR 06 2009

OFFICE OF PETITIONS

In re Patent No. 7,080,300 :
Issue Date: July 18, 2006 :
Application No. 10/777,327 : **ON PETITION**
Filed: February 12, 2004 :
Attorney Docket No. X-1545 US :

This is a decision on the petition filed December 11, 2008, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant : Mark Spotswood : DECISION ON REQUEST FOR
Patent Number : 7665080 : RECALCULATION of PATENT
Issue Date : 02/16/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/777,361 : 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 **901** 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.



**HAYNES AND BOONE
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202**

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of :
Marie-Pascale Chagny et al :
Application No. 10/777,374 : **ON PETITION**
Filed: February 12, 2004 :
Attorney Docket No. 16356.843(DC-05910) :

This is a decision on the petition under 37 CFR 1.137(b), filed September 28, 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)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 25, 2005, which set a shortened statutory period for reply of thirty (30) days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 26, 2005.

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 continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion 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; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), a petition to revive cannot be granted where there is an outstanding requirement.

In the instant case, there was no response to the outstanding official action submitted. Accordingly, the petition to revive cannot be granted until such time as the outstanding response requirement is received.

The statement of unintentional delay presented in the petition does not comply with the current rule. Effective December 1, 1997, 37 C.F.R. §1.137 (b)(3) requires a statement that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional” be submitted. However, the statement presented will be accepted and construed as meaning that “the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional.” If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

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: (571) 273-8300

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


Wan Laymon
Petitions Examiner
Office of Petitions



**HAYNES AND BOONE
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202**

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Marie -Pascale Chagny et al :
Application No. 10/777,374 :
Filed: February 12, 2004 :
Attorney Docket No. 16356.843 (DC- :
05910) :

ON PETITION

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

The petition is **GRANTED**.

The renewed 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 unintentionally delay have been received. Accordingly, the reply to the non-final Office action of January 25, 2005 is accepted as having been unintentionally delayed.

This matter is being referred to Technology Center AU 2836.

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


Wan Laymon
Petitions Examiner
Office of Petitions



TOWNSEND AND TOWNSEND
AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAR 26 2009

OFFICE OF PETITIONS

In re Application of :
Robert G. BRIDGES :
Application No. 10/777,381 : **DECISION ON PETITION**
Filed: February 11, 2004 : **TO WITHDRAW**
Attorney Docket No. 40168-000100 : **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, 2009.

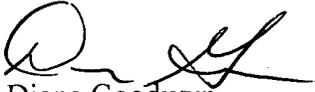
The request is **NOT APPROVED**.

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 the attorneys of record were not appointed by Customer Number 20305, as indicated.

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: ROBERT G. BRIDGES
2465 PEREGRINE LOOP
MISSOULA, MT 59808



**TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER., EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834**

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APR 20 2009

OFFICE OF PETITIONS

In re Application of :
Robert G. BRIDGES :
Application No. 10/777,381 :
Filed: February 11, 2004 :
Attorney Docket No. 40168-000100 :

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, 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. 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 William J. Daley on behalf of the attorneys of record associated with Customer No. 20350.

The attorneys of record associated with Customer No. 20350 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 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: ROBERT G. BRIDGES
2465 PEREGRINE LOOP
MISSOULA, MT 59808



Paper No. 030105

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

MAR 17 2005

In re Application of :
THOMAS J. MILLER : DECISION ON PETITION
Application No. 10/777,401 :
Filed: February 12, 2004 :
Attorney Docket No. TMILLR.017A :

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 15, 2004 to make the above-identified application special.

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

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of \$130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

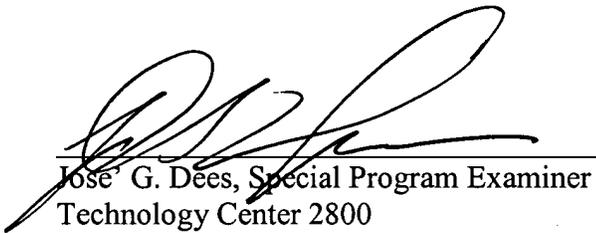
application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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

**FRANK EYMARD
ADAMS AND REESE, LLP
4500 ONE SHELL SQUARE
NEW ORLEANS, LA 70139**

**COPY MAILED
JUN 29 2006
OFFICE OF PETITIONS**

In re Application of	:	
Gordon et al.	:	DECISION ON PETITION
Application No. 10/777,411	:	TO WITHDRAW
Filed: February 12, 2004	:	FROM RECORD
Attorney Docket No. 9071-3	:	

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 18, 2005.

The request is **APPROVED**.

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

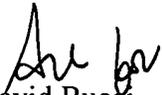
The request was signed by Frank C. Eymard, the sole attorney of record. Frank C. Eymard has been withdrawn.

A Power of Attorney was submitted on June 29, 2005 by the assignee. However, the Statement under 3.73(b) was incomplete. In this regard, the 3.73(b) does not include the reel and frame number showing the chain of title from the inventor(s), of the patent application above, to the current assignee. Petitioner may also submit any documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). 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. Further, the Assignee is currently listed as Flexuspine, Inc., rather than FSU Technology, Inc. as listed in the Power of Attorney.

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

All future correspondence will be directed to the first named inventor, Charles Gordon, at the first address indicated below until otherwise properly notified.

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:

CHARLES GORDON
1905 PINEHURST STREET
TYLER, TX 75703

ERIC B. MEYERTONS, ESQ.
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

**KEITH KLINE
PRO-TECHTOR INTERNATIONAL SERVICES
20775 NORADA COURT
SARATOGA, CA 95070-3018**

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AUG 04 2006

*Director's Office
Office of Patent Publication*

In re Application of :
WANG, PETER :
Application No. 10/777,417 :
Filed: February 11, 2004 :
Attorney Docket No. 2001076 :

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark Office (USPTO) on June 26, 2006.

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

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed December 16, 2005. The Notice of Abandonment, mailed on June 8, 2006 indicates, "The submitted fee of \$0 is insufficient. A balance of \$1,700 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal, Form PTOL 85B and the Credit Card Payment form, PTO-2038 on March 15, 2006. Unfortunately, when the Office attempted to charge the required fees on same date, the credit card company declined the credit card transaction.

The holding of abandonment will not be withdrawn as this time.

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

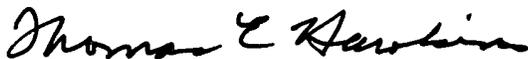
- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidable* abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally* abandoned application

Since, the petitioner indicates to Alternatively, Petition To Revive, the petition will be forward electronically via Image File Wrapper system, to the deciding officials in the Office of Petitions.

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

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 137.

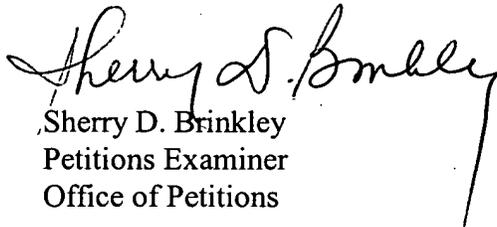


Thomas E. Hawkins
Paralegal Specialist
Office of the Director
Office of Patent Publications

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

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

Any questions concerning this matter may be directed to Monica Graves at (571) 272-7253.


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

KEITH KLINE
PRO-TECTOR INTERNATIONAL SERVICES
20775 NORADA COURT
SARATOGA, CA 95070-3018

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JAN 23 2008

In re Application of : **OFFICE OF PETITIONS**
WANG, Peter :
Application No. 10/777,417 : **DECISION ON PETITION**
Filed: February 11, 2004 :
Attorney Docket No. 2001076 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 16, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed December 16, 2005. Accordingly, the date of abandonment of this application is March 17, 2006.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Ralph Willgoos appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1400 and the publication fee of \$300, (2) the petition fee of \$1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

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


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

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SEP 24 2004

OFFICE OF PETITIONS

In re Application of :
Lee et al. :
Application No. 10/777,431 : DECISION ON PETITION
Filed: February 12, 2004 :
Attorney Docket No. 678-1352 :
(P11800) :

This is a decision on the petition filed July 19, 2004 (certificate of mailing dated July 12, 2004), which is being treated as a request to withdraw the "Notice of Omitted Item(s) in a Nonprovisional Application" mailed on May 12, 2004.

On February 12, 2004, applicants filed the above-identified application. On May 12, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Items," stating that the application had been accorded a filing date of February 12, 2004, and advising applicants that Figures 6 and 12-14 appeared to have been omitted.

In response, on July 19, 2004 (certificate of mailing dated July 12, 2004), applicants filed the present petition, 14 sheets of drawings, including copies of Figures 6 and 12-14, and the \$130.00 petition fee. The petition was accompanied by a postcard receipt containing a date-stamp of February 12, 2004.

Upon review of the record, Figures 6 and 12-14 have not been located in the official file. The Office notes that the date-stamped postcard receipt contains a notation by a USPTO employee regarding Figures 6 and 12-14. Additionally, the transmittal indicates that the USPTO did not receive Figures 6 and 12-14 on filing. Accordingly, these facts indicate that Figures 6 and 12-14 were not misplaced in the Office because the USPTO employee who opened the envelope recognized that Figures 6 and 12-14 were intended to be filed and found the drawings to be missing.

Therefore, the Notice of Omitted Items was properly mailed. The petition is dismissed.

It is noted that the specification stated that the present application incorporated by reference the foreign application, Korean Application No. 2003-9665, filed on February 15, 2003. Applicants state that the Korean Application contains Figures 6 and 12-14.

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).

Applicants may file an amendment to the examiner to include Figures 6 and 12-14 without a petition.

The \$130.00 petition fee will not be refunded because the filing of the petition was not necessitated by USPTO error.

The Office of Initial Patent Examination is directed to process the application with a filing date of February 12, 2004, using the application papers filed on that date. Figures 6 and 12-14 will NOT be entered at this time.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Min (Amy) S. Xu
DORSEY & WHITNEY LLP
Intellectual Property Department
50 South Sixth Street, Suite 1500
Minneapolis MN 55402-1498

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Schiller, Peter J.	:	DECISION ON PETITION
Application No. 10/777,440	:	TO WITHDRAW
Filed: February 12, 2004	:	FROM RECORD
Attorney Docket No. 14609.01	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 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 Min (Amy) S. Xu on behalf of all attorneys of record who are associated with Customer Number 25763.

All attorneys/agents associated with Customer Number 25763 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, Peter J. Schilling, at the address indicated below.

The application became abandoned for failure to timely reply to the Office action mailed November 25, 2005.

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:

PETER J. SCHILLER
2700 BLACK OAKS LANE
MINNEAPOLIS, MN 55446



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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**KRIEGSMAN & KRIEGSMAN
30 TURNPIKE ROAD, SUITE 9
SOUTHBOROUGH MA 01772**

MAILED

JUN 01 2010

In re Application of :
James M. Cullen et al :
Application No. 10/777,456 :
Filed: February 12, 2004 :
Attorney Docket No. 82126 :

**OFFICE OF PETITIONS
DECISION ON PETITION**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 1, 2009, is accepted as having been unintentionally delayed.

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

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

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

Mail Date: 04/21/2010

Applicant	: Abraham Phillip Lee	: DECISION ON REQUEST FOR
Patent Number	: 7595195	: RECALCULATION OF PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/777,470	: 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 **1387** 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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BANNER & WITCOFF, LTD.
28 STATE STREET
28th FLOOR
BOSTON, MA 02109-9601

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MAY 05 2005

OFFICE OF PETITIONS

In re Application of :
Dylan S. Van Atta, et al. :
Application No. 10/777,480 :
Filed: February 12, 2004 :
Attorney Docket No. 005127.87540 :

ON PETITION

This is a decision on the petition, filed April 28, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

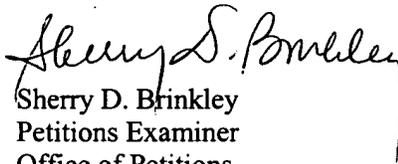
The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 2873 for further processing of the request for continued examination under 37 CFR 1.114.


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

¹The 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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**SENNIGER POWERS LLP (MSFT)
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS MO 63102**

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of :
Ashvin Joseph Mathew et al. :
Application No. 10/777,493 :
Filed: February 12, 2004 :
Attorney Docket No. MS#304548.01 (5096) :

ON PETITION

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 application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 10, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A one-month (1) extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 12, 2006. The Notice of Abandonment was mailed July 3, 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 election; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to Technology Center AU 2163 for appropriate action on the concurrently filed election.

Liana Walsh
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY (32469)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant : Christopher Charles Andrews : DECISION ON REQUEST FOR
Patent Number : 7615057 : RECALCULATION of PATENT
Issue Date : 11/10/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/777,496 : 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 **1248** 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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LOTT & FRIEDLAND, P.A.
P.O. BOX 141098
CORAL GABLES FL 33114-1098

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FEB 23 2007

OFFICE OF PETITIONS

In re Application of
Donald P. **EWING**, et al.
Application No. 10/777,498
Filed: February 12, 2004
Attorney Docket No. 01113-1-0010

**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 19, 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 Ury Fischer, the sole attorney of record. Ury Fischer has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Donald P. Ewing at the address indicated below.

There is an outstanding Office action mailed November 13, 2006 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: **DONALD P. EWING**
3715 VICTORIA ROAD
WEST PALM BEACH, FL 33411



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUITE 2040
FORT LAUDERDALE, FL 33301

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MAY 14 2008

In re Application of :
Donald P. Ewing, et al. :
Application No. 10/777,498 : DECISION ON PETITION
Filed: February 12, 2004 :
Attorney Docket No. 1456-2U :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

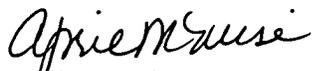
The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 20, 2007, which set a shortened statutory period for reply of three (3) months. A one month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on July 21, 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.

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

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

This application is being referred to Technology Center AU 3711 for appropriate action by the Examiner in the normal course of business on the reply received November 21, 2007.



April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/777,498	02/12/2004	Donald P. Ewing	1456-2U

DONALD P. EWING
3715 VICTORIA ROAD
WEST PALM BEACH, FL 33411

CONFIRMATION NO. 5239
POWER OF ATTORNEY NOTICE



Date Mailed: 05/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2008.

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

/amwise/

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/777,498	02/12/2004	Donald P. Ewing	1456-2U

CONFIRMATION NO. 5239

POA ACCEPTANCE LETTER

31292
CHRISTOPHER & WEISBERG, P.A.
200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE, FL 33301



Date Mailed: 05/13/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2008.

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.

/amwise/

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



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5000 BANK ONE CENTER
1717 MAIN STREET
DALLAS, TX 75201

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APR 05 2005

OFFICE OF PETITIONS

In re Application of :
Joseph A. Zupanick :
Application No. 10/777,503 : DECISION GRANTING PETITION
Filed: February 11, 2004 : UNDER 37 CFR 1.313(c) (2)
Attorney Docket No. 067083.0301 :

This is a decision on the petition, filed March 30, 2005, under 37 CFR 1.313(c) (2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 3, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 3672 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JGJR.: 10-07

Paper No: ___

GILBRETH & ASSOCIATES, P.C.
P.O. BOX 2428
BELLAIRE TX 77402-2428

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of :
Baudat :
Application No. 10/777,506 :
Filing Date: 11 February, 2004 :
Attorney Docket No.: 27620/02 :

DECISION

This is a decision on the petition filed on 7 August, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.¹

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and

¹ **NOTE:** Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

Fees Due mailed on 4 May, 2006, with reply due under a non-extendable deadline on or before 4 August, 2006;

- the instant application went abandoned by operation of law after midnight 4 August, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- on 7 August, 2006, Petitioner filed the instant petition (with fee), reply in the form of the fees due, and made the statement of unintentional delay;
- the Office mailed the Notice of Abandonment on 21 February, 2007.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).³

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.⁴

Delays in responding properly raise the question whether delays are unavoidable.⁵ Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).⁶ And the Petitioner must be diligent in attending to the matter.⁷ Failure to do so does not constitute the care required under Pratt,⁸ and so cannot satisfy the test for diligence and due care.

-
- (1) Holding certain facts to have been established;
 - (2) Returning papers;
 - (3) Precluding a party from filing a paper, or presenting or contesting an issue;
 - (4) Imposing a monetary sanction;
 - (5) Requiring a terminal disclaimer for the period of the delay; or
 - (6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15). [Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised; 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

³ 35 U.S.C. §133 provides:

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

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

⁴ Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

⁵ See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

⁶ See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

⁷ See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

⁸ The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

(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.⁹))

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and—where appropriate—a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent 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. §1.2¹⁰) 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

⁹ 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.

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.



PATRICK FAY, ESQ.
FAY KAPLUN & MARCIN, LLP
SUITE 702
150 BROADWAY
NEW YORK NY 10038

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Application of	:	
DIMATTEO, Kristian et al.	:	
Application No. 10/777,545	:	DECISION ON PETITION
Filed: February 12, 2004	:	TO WITHDRAW
Attorney Docket No. 10123/04501	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 09, 2010.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the signature on the Request to Withdraw as attorney does not have an original signature. All correspondence filed in the Office should be an original document and must include an original signature. It appears that the top of the petition is original; however the bottom of the petition appears to have a copied signature, which is not permitted by the USPTO. Since the petition is half original and half copied it does not appear that an original could have been retained as set forth in 37 CFR 1.4 below.

§ 1.4 Nature of correspondence and signature requirements.

(d)(1)*Handwritten signature*. Each piece of correspondence, except as provided in paragraphs (d)(2), (d)(3), (e) and (f) of this section, filed in an application, patent file, or other proceeding in the Office which requires a person's signature, must:

- (i) Be an original, that is, have an original handwritten signature personally signed, in permanent dark ink or its equivalent, by that person; or

(ii) Be a direct or indirect copy, such as a photocopy or facsimile transmission (§ 1.6(d)), of an original. In the event that a copy of the original is filed, the original should be retained as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

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

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



Michelle R. Eason
Paralegal Specialist
Office of Petitions



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 M. Johnson
Carter Ledyard & Milburn LLP
2 Wall Street
New York, NY 10005

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APR 25 2006

OFFICE OF PETITIONS

In re Application of Fischer :
Application No. 10/777,550 : Decision on Petition
Filing Date: February 12, 2004 :
Attorney Docket No. MAR84 010 :

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed April 15, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 16, 2005. A Notice of Abandonment was mailed on October 28, 2005.

The instant petition requests revival of the application.

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

The Office of Publications will be informed of the instant decision and will take steps to issue the application as a patent.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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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John M. Johnson
Carter Ledyard & Milburn LLP
2 Wall Street
New York, NY 10005

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OFFICE OF PETITIONS

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~~**APR 25 2006**~~

~~**OFFICE OF PETITIONS**~~

In re Application of Fischer :
Application No. 10/777,550 :
Filing Date: February 12, 2004 :
Attorney Docket No. MAR84 010 :

Decision on Petition

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed April 15, 2005, which set a shortened statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on July 16, 2005. A Notice of Abandonment was mailed on October 28, 2005.

The instant petition requests revival of the application.

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

The Office of Publications will be informed of the instant decision and will take steps to issue the application as a patent.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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

John A. Harrelson, Jr.
Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

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MAY 10 2004

OFFICE OF PETITIONS

In re Application of	:	
Daniel A. Hammer et al.	:	
Application No. 10/777,552	:	DECISION ON PETITION
Filed: February 12, 2004	:	UNDER 37 C.F.R. §1.10(D)
Attorney Docket No. UPN-4290	:	
Title: Polymersomes	:	
Incorporating Highly Emissive	:	
Probes	:	

This is a decision on the petition under 37 C.F.R. §1.10(d), submitted on March 17, 2004, requesting that the application be accorded a filing date of February 12, 2004.

Shortly after February 12, 2004, the above-identified application was received in the Office. The Office of Initial Patent Examination mailed petitioner's postcard receipt, which indicated that the application had been accorded a filing date of February 11, 2004.

In response, on March 17, 2004, applicants filed the present petition. Petitioners have included a copy of the Express Mail Label having a number of EL969189362US¹. Applicants request that the application be accorded a filing date of February 12, 2004.

¹ The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

Petitioner has alleged that the application was deposited on February 12, 2004, and the Patent Office has incorrectly assigned a filing date of February 11, 2004 to the instant application.

Regarding the Express Mail label, it is noted that the label contains a "date-in" of February 11, 2004. A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (<http://www.usps.com/shipping/trackandconfirm.htm>) establishes that the package was received on February 12, 2004. A print-out of this report has been enclosed.

Although the application received a filing date of February 11, 2004, the evidence is convincing that the application papers were filed on February 12, 2004, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of February 12, 2004.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 12, 2004, as well as the mailing of a corrected filing receipt.

Petitioner has submitted payment in the amount of \$130. Since there is no fee for a petition submitted under 37 C.F.R. 1.10(d), the petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.



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

Encl. Copy of the USPS website tracking results.



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

DINH & ASSOCIATES
2506 Ash Street
Palo Alto, CA 94306

MAR 25 2008

In re Application of LUAN, HARRY S. et. al.
Application No. 10/777,560
Filed: February 11, 2004
Attorney Docket No. 108-18.1
DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment, received in the United States Patent & Trademark Office (USPTO) on February 1, 2008.

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

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed October 19, 2006. The Notice of Abandonment, mailed on January 22, 2007 indicates, "The issue fee required has not been received."

The Office acknowledges receipt of Part B-Fee(s) Transmittal on January 23, 2007, authorizing that the Issue Fee be charged to Deposit Account No. 50-1229. When an attempt was made by the Office to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

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

1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., Requested must always be on deposit. Charges to accounts with insufficient Funds will not be accepted.

1.25(b)...An authorization to charge a fee to a deposit account will not be considered Payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

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

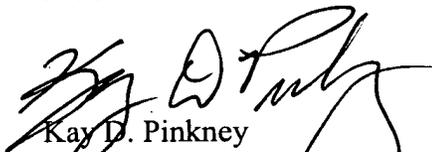
Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

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

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

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

Telephone inquires concerning this decision matter may be directed to the undersigned at 703 308-9250 Ext. 175.


Kay D. Pinkney
Application Assistance Unit
Office of Data Management



**TRUONG DINH
DINH & ASSOCIATES
2506 ASH STREET
PALO ALTO, CA 94306**

**COPY MAILED
JUN 30 2008**

In re Application of :
Harry S. LUAN et al. :
Application No. 10/777,560 : **DECISION ON PETITION**
Filed: February 11, 2004 :
Attorney Docket No. 108-18.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before January 19, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,440.00, (2) the petition fee of \$1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee payment is accepted as being unintentionally delayed.

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

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions



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

MAILED

MAR 24 2010

OFFICE OF PETITIONS

In re Patent of Estrada	:	DECISION ON REQUEST
Patent No. 7,574,335	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/777,566	:	AND NOTICE OF INTENT TO
Filing Date: February 11, 2004	:	ISSUE CERTIFICATE OF
Atty. Docket No. 07844-0620001/P351N	:	CORRECTION

This is a decision on the petition filed on October 6, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the patent is extended or adjusted by one thousand one hundred twelve (1,112) 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 twelve (1,112) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on February 12, 2007, and ended on May 26, 2008, *the day before* the RCE was filed, and is 470 (not 471) days. See 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 1,111 days, not 1,112 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by one thousand one hundred eleven (1,111) days.

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

A handwritten signature in black ink, appearing to read "Anthony Knight", written in a cursive style.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,574,335 B1

ISSUE DATE : August 11, 2009

DRAFT

INVENTOR(S) : Estrada

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 698 days.

Delete the phrase "by 698 days" and insert - by 1111 days--



US007574335B1

(12) **United States Patent**
Estrada

(10) **Patent No.:** **US 7,574,335 B1**
(45) **Date of Patent:** **Aug. 11, 2009**

(54) **MODELLING PIECE-WISE CONTINUOUS TRANSFER FUNCTIONS FOR DIGITAL IMAGE PROCESSING**

(75) **Inventor:** **James J. Estrada, San Jose, CA (US)**

(73) **Assignee:** **Adobe Systems Incorporated, San Jose, CA (US)**

(*) **Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 698 days.

(21) **Appl. No.:** **10/777,566**

(22) **Filed:** **Feb. 11, 2004**

(51) **Int. Cl.**

- G06F 7/60* (2006.01)
- G06F 17/10* (2006.01)
- G06F 17/00* (2006.01)
- G06F 17/11* (2006.01)
- G06F 17/15* (2006.01)
- G06F 17/17* (2006.01)
- G03F 3/08* (2006.01)
- G03F 3/00* (2006.01)
- G06F 11/00* (2006.01)
- G06E 1/04* (2006.01)
- G06E 1/00* (2006.01)

(52) **U.S. Cl.** 703/2; 708/530; 708/533; 708/540; 358/518; 358/519; 382/167

(58) **Field of Classification Search** 348/229.1; 708/512, 530, 533, 540; 703/6, 2; 382/167; 358/1.9, 520, 518-519; 345/589-591, 600, 345/603-604

See application file for complete search history.

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(Continued)

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(Continued)

Primary Examiner—Hugh Jones

Assistant Examiner—Suzanne Lo

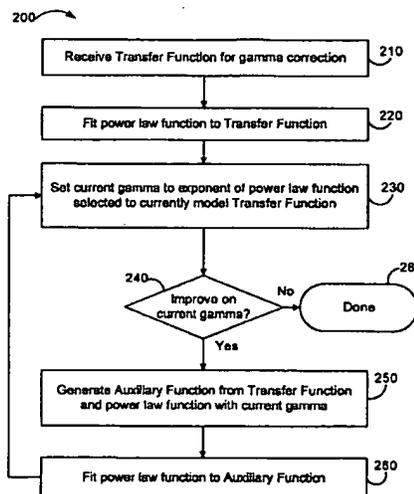
(74) *Attorney, Agent, or Firm*—Fish & Richardson P.C.

(57)

ABSTRACT

Methods and apparatus, including computer program products, for modelling a non-linear transfer function with a power law function. A transfer function is received. Iteratively, until a termination flag is set, a first power law function is received, an auxiliary function is generated from the transfer function and local differences between the transfer function and the first power law function, a second power law function is fitted to the auxiliary function, a modelling error is calculated from the second power law function and the transfer function, and the termination flag is set when the modelling error is less than a predetermined value.

47 Claims, 5 Drawing Sheets





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

Mail Date: 04/20/2010

Applicant	: James J. Estrada	: DECISION ON REQUEST FOR
Patent Number	: 7574335	: RECALCULATION OF PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/777,566	: 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 **1524** 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.: X

DATE : October 23, 2007

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/777,567 Patent No.: 6983599 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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: The claims dated 02/12/2004 ^{are} seem the correct set of claims. The claims dated 3/21/05 are incorrect and seem to be directed toward another case. The claims on COC is correct

Dwan Hua

SPE

3746

Art Unit



Keith A. Cushing
Patent Cooperation Treaty
4201 S.W. Vacuna St.
Portland, OR 97219

COPY MAILED
SEP 25 2007
OFFICE OF PETITIONS

In re Application of

Wayne Douglas Trantow

Application No. 10/777,568

Filing Date: February 12, 2004

Attorney Docket No. 1628-3664

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

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed February 21, 2006, which set a shortened period for reply of one (1) month from its mailing date. No extensions of time were obtained within the allowable period. Accordingly, the application became abandoned on March 22, 2006. A Notice of Abandonment was mailed on September 18, 2006.

The election filed September 5, 2007, is noted.

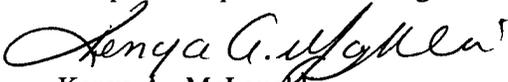
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into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

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. The declaration under 37 CFR 1.63 filed September 5, 2007, appoints and attorney, but does not revoke the previous power of attorney granted. If the person signing the instant petition desires to receive future correspondence regarding this

application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 3700, GAU 3711 for further processing.

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



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Cc:
Scott Schaffer
Marger Johnson & McCollom PC
210 SW Morrison Street, Suite 400
Portland, OR 97204



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IBM_SVL
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Palo Alto, CA 94303

Mail Date: 04/20/2010

Applicant : Yao-Ching Stephen Chen : DECISION ON REQUEST FOR
Patent Number : 7624119 : RECALCULATION of PATENT
Issue Date : 11/24/2009 : TERM ADJUSTMENT IN VIEW
Appliction No : 10/777,604 : 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 **393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



JUL 31 2006

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

Paper No. 07172006

In re Application of	:	Petition to Expunge Information
Raymond Rudolph Spivey	:	Unintentionally submitted under
Application Number 10/777,614	:	37 C.F.R 1.59(b)
Filed: February 12, 2004	:	
For: Carton With An Improved Dispensing Feature	:	
	:	

This is in response to applicant's Petition under 37 C.F.R. 1.59(b) filed on September 14, 2004 to expunge information unintentionally submitted.

The petition is **DISMISSED** as moot.

Applicant petitioned to the have a non-redacted copy of the brief filed May 26, 2004 expunged from the record of this application. A search of the Official record for this application has been done and no copy of a brief was filed May 26, 2004 was found. The IDS filed June 1, 2004 references a "Riverwood International Corporation v. Meadwestvaco Corporation" pre-hearing brief but there is no copy of this document in the official record. Therefore, there is no copy to return with this letter.

SUMMARY: The petition is **DISMISSED** a moot.

Inquiries related to this decision may be directed to Supervisory Patent Examiner Eileen Lillis at (571) 272-6928.



 John Love
 Director
 Patent Technology Center 3600
 571-272-5350

edl/kd



PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In application of:)		
Raymond Rudolph Spivey)		
Serial No.: 10/777,614)	Art Unit:	3653
Filed: February 12, 2004)	Examiner:	Noland, Kenneth W.
For: CARTON WITH AN IMPROVED)		
DISPENSING FEATURE)	Docket No.:	R029 1064.4

CERTIFICATE OF EXPRESS MAIL

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

Sir:

Enclosed for filing in the above case are the following documents:

- Petition to Expunge Information Unintentionally Submitted
in an Application under 37 C.F.R. 1.59(b)
- Appendix - Riverwood's Supplemental Pre-Hearing Brief in Support of
Plaintiff's Motion for Preliminary Injunction
- Return Postcard

Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037
(404) 872-7000 (Telephone)
(404) 888-7490 (Facsimile)

I hereby certify that all correspondences listed above are being deposited for delivery to the above addressee, with the United States Postal Service "**EXPRESS MAIL POST OFFICE TO ADDRESSEE**" service under 37 CFR 1.10 on the date indicated below:

The envelope has been given U.S. Postal Service "Express Mail Post Office To Addressee" Package # EV 315816270 US

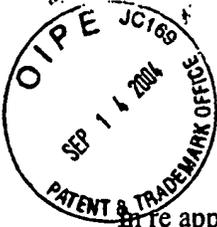
September 14, 2004
Date

Cheryl West
(Printed Name of Person Mailing
Correspondence)

Cheryl West
(Signature of Person Mailing
Correspondence)

08-15-04

DAC
ITW.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

)	
)	
Raymond Rudolph Spivey)	
)	
Serial No.: 10/777,614)	Docket No.: R029 1064.4
)	
Filed: February 12, 2004)	
)	
For: CARTON WITH AN IMPROVED)	
DISPENSING FEATURE)	

**PETITION TO EXPUNGE INFORMATION UNINTENTIONALLY SUBMITTED
IN AN APPLICATION UNDER 37 C.F.R. 1.59(b)**

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

Dear Sir:

Petitioner hereby submits this Petition to Expunge Information Unintentionally Submitted In An Application, pursuant to 37 C.F.R. 1.59(b). Petitioner requests that a non-redacted Brief, entitled "Riverwood's Supplemental Pre-Hearing Brief in Support of Plaintiff's Motion for Preliminary Injunction" as filed in an Information Disclosure Statement (IDS) by the Applicant on May 26, 2004, be expunged from the file history record, and that this non-redacted Brief be replaced with a redacted version of the same Brief. The non-redacted version of the Brief was unintentionally submitted during prosecution of the present Application rather than the redacted version, which is attached in the Appendix hereto.

Petitioner hereby states that the Office can affect such return of the information prior to the issuance of any patent on the Application in issue.

Petitioner acknowledges the requirement to retain such information for the period of any patent with regard to which such information is submitted.

Certain information contained in the Brief submitted along with the IDS should have been redacted prior to submission of the IDS. That information has been removed from the redacted version, is not material information under 37 C.F.R. 1.56, and does not affect the patentability of the application to which the document was submitted. This information in the non-redacted Brief is subject to a Protective Order as issued by the U.S. District Court, Northern District of Georgia, Atlanta Division. The replacement of the non-redacted version of the Brief with the redacted version will be in furtherance of the Protective Order.

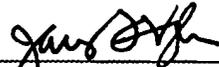
The Petitioner also has submitted a Petition to Expunge in reference to the prosecution history of U.S. Patent Application No. 10/425,846, which is the "parent" of the instant Application. The non-redacted Brief also was submitted in an IDS in the '846 Application. The '846 Application issued as U.S. Patent No. 6,715,639 on April 6, 2004. The disclosure in the prosecution history of the '639 Patent is the only public disclosure of the non-redacted material from the Brief to Applicant's knowledge. Removal of the non-redacted material from the prosecution file history is believed by Applicant to expunge this information from the public domain.

Accordingly, under 37 C.F.R. 1.59(b), the Petitioner requests: (i) expungement of the non-redacted Brief entitled "Riverwood's Supplemental Pre-Hearing Brief in Support of Plaintiff's Motion for Preliminary Injunction," filed in an IDS by the Applicant on May 26, 2004, and (ii) replacement of the non-redacted Brief with the redacted version of the same Brief.

The Commissioner is hereby authorized to charge any fees for this petition to deposit
account no. 09-0528.

Respectfully submitted,

9/13/04
Date



James F. Vaughan
Registration No. 31,889

Customer Number 26158
Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037
(404) 962-7528 (Telephone)
(404) 870-8178 (Facsimile)



APPENDIX TO

PETITION TO EXPUNGE INFORMATION UNINTENTIONALLY
SUBMITTED IN AN APPLICATION UNDER 37 C.F.R. 1.59(b)



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RIVERWOOD INTERNATIONAL CORPORATION,)
)
Plaintiff,)
) Civil Action
vs.) No. 1:03-CV-1672 (TWT)
)
MEADWESTVACO CORPORATION,)
) *Filed Under Seal -*
Defendant.) *Contains Confidential Materials*
)
and)
)
COCA-COLA ENTERPRISES INC.,)
)
Intervenor.)

**RIVERWOOD'S SUPPLEMENTAL
PRE-HEARING BRIEF IN SUPPORT OF
PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

Submitted by:

Kirk W. Watkins
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William A. Capp
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Facsimile: (404) 870-4837

Counsel for Plaintiff
Riverwood International Corporation
(nka Graphic Packaging Corporation)

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUL 14 2004

OFFICE OF PETITIONS

In re Application of :
Suek, et al. : DECISION GRANTING
Application No. 10/777,615 : PETITION
Filed: February 12, 2004 :
Attorney Docket No. 2316.1253USC1 :
For: FERRULE POLISHING FIXTURE :

This is a decision on the "Request for Corrected Filing Receipt," filed June 10, 2004 (certificate of mailing date June 8, 2004), requesting that the above-identified application be accorded a filing date of February 12, 2004 rather than the presently accorded filing date of February 13, 2004. The paper will be treated as a petition under 37 CFR 1.10(c).

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service of the United States Postal Service (USPS) on February 12, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV322884329US showing a "date-in" of 2/14/04 **and** a USPS date stamp of FEB 12 2004. The same Express Mail label number is listed on the original transmittal letter found in the application file. In addition, the USPS Track & Confirm Shipment Details for the package associated with EV322884329US states that the package was accepted on February 12, 2004 in Minneapolis, MN 55401.

The evidence presented establishes that the Express Mail package associated with Express Mail label no. EV322884329US was deposited with the USPS on February 12, 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 12, 2004**.

Any inquiries related to this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090306

DATE : March 04, 2009

TO SPE OF : ART UNIT 2613

SUBJECT : Request for Certificate of Correction on Patent No.: 7,167,652

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:

All changes are approved.

Thanks.

/Jason Chan/
Supervisory Patent Examiner, Art Unit 2613



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JUL 20 2004

DCM

In re Application of	:	
Alsobrook, et al.	:	
Serial Number: 10/777, 667	:	PETITION UNDER
Filed: February 10, 2004	:	MPEP 708.02 VIII
For: METHODS AND APPARATUS FOR PROCESSING:	:	
VEGETABLES	:	

This is in response to the Petition to Make Special filed April 29, 2004, requesting that the above-identified application be granted Special Status under section 708.02 VIII of the MPEP and 37 CFR 1.102(d). The fee set forth in 37 CFR 1.17(h) has been paid.

The criteria set forth in section 708.02 VIII of the MPEP and 37 CFR 1.102(d) have been met.

Accordingly the petition is **GRANTED**.

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Bernard L. Kleinke, Esq.
DUCKOR SPRADLING METZGER
401 WEST A STREET, SUITE 2400
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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 22 2007

OFFICE OF PETITIONS

Applicant: Kobayashi et al.
Appl. No.: 10/777,681
Filing Date: February 13, 2004
Title: IMAGE PROCESSING APPARATUS FOR REDUCING NOISE FROM IMAGE
Attorney Docket No.: 248967US2X
Pub. No.: US 2004/0159812 A1
Pub. Date: August 19, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 27, 2006, for the above-identified application

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains material errors, as the patent application publication does not include the specification, claims, abstract and drawings filed with the application.

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

The request for corrected publication received on June 27, 2006, was not timely filed under 37 CFR 1.221(b).

The patent application publication was published with the specification, claims, abstract and drawings from another application by the same firm that was submitted on the same day. Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in due

¹Changes 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).

course, unless the application is allowed and the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



JONATHAN Y. KANG, ESQ.
LEE, HONG, DEGERMAN, KANG & SCHMADEKA
14TH FLOOR
801 S. FIGUEROA STREET
LOS ANGELES CA 90017

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MAY 10 2005

OFFICE OF PETITIONS

In re Application of	:	
Hee Jeong Kim	:	
Application No. 10/777,700	:	DECISION DISMISSING
Filed: February 11, 2005	:	PETITION
Attorney Docket No. 2080-3228	:	

This is a decision on the petition filed April 29, 2005, requesting that the above-identified application be accorded a filing date of February 10, 2005, instead of the presently accorded filing date of February 11, 2005.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on February 10, 2005, pursuant to the requirements of 37 CFR 1.10(d). Specifically, petitioners are implying that the "date-in" of February 11, 2005, was incorrectly entered by the USPS.

Paragraph (a) of 37 CFR 1.10 states that:

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

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s)

¹See 37 CFR 1.6(a).

or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in § 10.1(r) of this chapter.

The petition lacks the showing required by item (3) above. The express mail label provided has a date-in of February 11, 2005. Petitioners have not presented sufficient corroborating evidence that the correspondence was deposited in Express Mail service prior to the last scheduled pickup for the day on February 10, 2005. If the error was due to the USPS entering the wrong date on the Express Mail label, petitioners should request a letter from the USPS stating that the correct date of deposit is February 10, 2005, and explaining why the error occurred. Additionally, petitioners may provide evidence that came into being after deposit and within one business day of deposit of the application in Express Mail. Such evidence may include a mail log with an entry made after the application was deposited in Express Mail, or a letter to the client sent after the mailing of the application confirming the mailing of the application.

The date on the USPS Pickup Service Statement submitted is not clear and the statements provided by Emil D. Byun and Margie A. Uribe don't specifically state that the express mail package in question was deposited in the mailroom on February 10, 2005. The statements provided by Byun and Uribe identify what the procedure is for depositing mail and what "likely" occurred on February 10, 2005.

Additionally, the petition fee in the amount of \$400.00 has been charged to deposit account no. 50-2290. Petitioner may be due a refund if it is determined that the error in the filing date is attributed to the USPS.

Accordingly, the petition is **DISMISSED**.

This matter is being referred to Technology Center 3661 for examination in due course but with the presently accorded filing date of February 10, 2005.

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



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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LOS ANGELES, CA 90017

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of
Kim Hee Jeong
Application No. 10/777,700
Filed: February 11, 2004
Attorney Docket No. 2080-3228

ON PETITION

This is a decision on the petition filed August 16, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

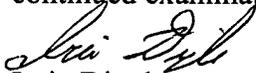
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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

This matter is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114.


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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JUN 18 2004

Director's Office
Group 3700

Duane W. Kinnear
11770 Ridge Rd.
E. Springfield, PA 16411

In re application of : **DECISION ON PETITION**
Duane W. Kinnear : **TO MAKE SPECIAL**
: **UNDER 37 CFR. 1.102(c)**

Serial Number: 10/777709 :
Filed: February 11, 2004 :

**For: SELF-ADJUSTING MECHANISM FOR A THERMOSTAT
RESPONSIVE TO HUMIDITY**

This is a decision on the petition filed on February 11, 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 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: Decision on Petition GRANTED.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 6/17/04



IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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JAN 31 2008

OFFICE OF PETITIONS

In re Application of	:	
Adkins, et al.	:	
Application No. 10/777,719	:	DECISION ON PETITION
Filed: February 12, 2004	:	
Attorney Docket No. AUS920031018US1	:	

This is a decision on the petition, filed November 28, 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 timely pay the issue and publication fees on or before October 26, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed July 26, 2007. A Notice of Abandonment was mailed on November 20, 2007.

Petitioner asserts that the Notice dated July 26, 2007 was not received.

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

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2163 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of July 26, 2007. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Geoffrey McLennan	: DECISION ON REQUEST FOR
Patent Number	: 7613335	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/777,764	: 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 **1411** 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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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 05/18/2010

Applicant	: Geoffrey McLennan	: NOTICE CONCERNING IMPROPER
Patent Number	: 7613335	: CALCULATION OF PATENT TERM
Issue Date	: 11/03/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 10/777,764	: IMPROPERLY MEASURING REDUCTION
Filed	: 02/12/2004	: 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 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 **1444** 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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DEC 01 2005

Daniel B. Schein, Ph.D.Esq.
P.O. Box 28403
San Jose CA 95159

In re Application of :
Fukunaga, Atsuo F. :
Serial No.: 10,777,772 : **DECISION ON PETITION**
Filed: February 12, 2004 :
For: Breathing Circuits Having Unconventional:
Respiratory Conduits and Systems and Methods:
For Optimizing Utilization of Fresh Gases :

This is in response to applicants' petition filed August 26, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact 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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Paper No.

SCHERING-PLOUGH BIOPHARMA
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO CA 94304

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of :
Timans et al. :
Application No. 10/777,790 : ON APPLICATION FOR
Filed: February 11, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. DX01040K3B :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)(b) filed January 30, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is seven hundred seventy-one (771) days, not five hundred sixteen (516) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent¹.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of

¹ It is noted that applicant's calculation fails to account for the fact that a request for continued examination (RCE) was filed in this application on October 25, 2007. The filing of an RCE cuts-off the ability to accumulate additional patent term for over three year pendency.

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

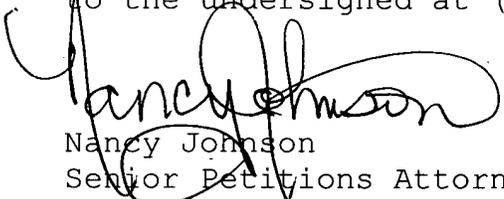
Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee².

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

² For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e). The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MERCK
C/O SCHERING-PLOUGH BIOPHARMA
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO, CA 94304

Mail Date: 04/20/2010

Applicant : Jacqueline C. Timans : DECISION ON REQUEST FOR
Patent Number : 7579440 : RECALCULATION of PATENT
Issue Date : 08/25/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/777,790 : 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 **858** 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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SCHMEISER, OLSEN & WATTS
22 CENTURY HILL DRIVE
SUITE 302
LATHAM, NY 12110

Mail Date: 04/21/2010

Applicant : Dmitrii Andreev : DECISION ON REQUEST FOR
Patent Number : 7650380 : RECALCULATION of PATENT
Issue Date : 01/19/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/777,799 : 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 **1725** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,468,432 :
Collins et al. : LETTER REGARDING
Issue Date: 12/23/2008 : PATENT TERM ADJUSTMENT and
Application No. 10/777820 : NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 02/12/2004 : CERTIFICATE OF CORRECTION
Atty. Docket No.: 07039-650002 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed May 22, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

On December 23, 2008, the above-identified application matured into U.S. Patent No. 7,468,432 with a patent term adjustment of two (2) days. Applicants indicate that the adjustment of two days may extend the term of the patent by too many days. Applicants further direct the Office's attention to the Information Disclosure Statement (IDS) filed November 21, 2007.

A review of the record reveals that the Office errantly neglected to assess a reduction of 16 days in accordance with 37 CFR 1.704(c)(8) in connection with the Information Disclosure Statement ("IDS") filed November 21, 2007. The reduction commenced November 6, 2007, the day after the date the initial reply (Request for Continued Examination and submission) were filed, and ended November 21, 2007, the date that the supplemental reply (IDS) was filed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days**, (266 days of PTO delay, reduced by 280 days of applicant delay), subject to any terminal disclaimer.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ZERO (0) DAYS**.

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



Alesia Brown

Petitions Attorney

Office of Petitions

Office of the Deputy Commissioner

for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,468,432 B2

DATED : December 23, 2008

INVENTOR(S) : Collins 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 2 days.

Delete the phrase "by 2 days" and insert – by 0 days--



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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

JUN 08 2006

TECHNOLOGY CENTER 2100

In re Application of: Yagisawa, et al.
Application No. 10/777,832
Filed: February 11, 2004
For: DISK ARRAY OPTIMIZING THE DRIVE
OPERATION TIME

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

This is a decision 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 October 26, 2004, duplicate copy filed on October 6, 2005. The delay in consideration of the petition is regretted.

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:

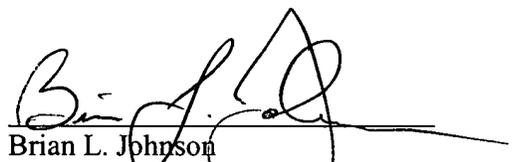
A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (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 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



LEE, HONG, DEGERMAN, KANG & SCHMADEKA
660 S. FIGUEROA STREET
SUITE 2300
LOS ANGELES CA 90017

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
Sung Duck Chun et al :
Application No. 10/777,843 : **DECISION ON PETITION**
Filed: February 11, 2004 : **UNDER 37 CFR 1.78(a)(3)**
Attorney Docket No. 2060-3-93C1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 3, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an

amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Additionally, the foreign application data need not be included in the amendment with the §120 benefit claim data.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

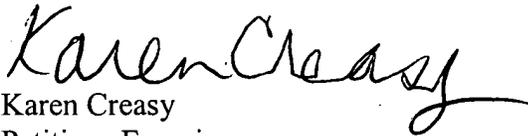
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

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


Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/4/07

Paper No.:

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/777848 Patent No: 7015279 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: _____

D Wu
SPE

1796
Art Unit



Paper No.

Song K. Jung
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006

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JUL 21 2004

OFFICE OF PETITIONS

In re Application of :
Kim et al. :
Application No. 10/777,852 : DECISION ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. 8733.446.10-US :

This is a decision on the petition filed June 10, 2004, requesting that the Office consider Figures 2A-2C, 3B, 7A and 7B as deposited on February 13, 2004, with the original application papers.

The application was filed on February 13, 2004. However, on May 10, 2004, the Office mailed a "Notice of Omitted Items" stating that the application had been accorded a filing date of February 13, 2004; however, figures 2A-2C, 3B, 7A and 7B described in the specification appeared to have been omitted. In response, the present petition was filed, asserting the presence of the drawings on filing via either an incorporation by reference statement or a concurrently filed preliminary amendment incorporating by reference the priority documents.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

The PTO file is the official record of the papers originally filed in this application. A review of the official file confirms that no drawing sheets containing figures 2A-2C, 3B, 7A and 7B were filed on February 13, 2004, since no such drawings are present in the file. Petitioners do not provide evidence, such as an itemized postcard receipt, that the omitted figures were among the papers present in the application on filing.

Moreover, omitted drawings are not considered present in the application on filing by virtue of either an incorporation by reference statement or a priority claim. See MPEP 201.06(c).

Nonetheless, with a proper incorporation by reference statement, applicants may amend an application to include omitted drawings. However, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

Accordingly, the petition is inappropriate and is subject to dismissal.

It is noted that the application transmittal letter identified this application as a divisional of prior application No. 09/892,879 and specifically incorporated by reference the disclosure of the prior application. MPEP 201.06(c) states that:

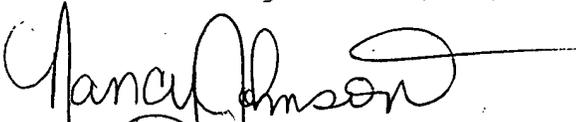
. . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application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

Obviously, in view of the incorporation by reference of the prior application, the drawing of Figures 2A-2C, 3B, 7A and 7B are not new matter if they were a part of the disclosure of the prior application.

A preliminary amendment requesting the entry of the sheets of drawings, containing figures 2A-2C, 3B, 7A and 7B (supplied June 10, 2004), should be filed prior to the first Office action on the merits.

The application will be processed by the Office of Initial Patent Examination with a filing date of February 13, 2004, including an indication in Office records that 8 sheets of drawings were present on filing.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



**SIMONA LEVI-MINZI, PH.D.
ANDREW J WARNER, ESQ.
CELL SIGNALING TECHNOLOGY, INC.
3 TRASK LANE
DANVERS MA 01923**

**COPY MAILED
SEP 21 2007
OFFICE OF PETITIONS**

In re Application of :
John Rush et al. :
Application No. 10/777,893 : **DECISION ON PETITION**
Filed: February 12, 2004 :
Attorney Docket No. CST-201 CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 5, 2007. Accordingly, the date of abandonment of this application is May 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$700 and the publication fee of \$300, (2) the petition fee of \$750; and (3) a proper statement of unintentional delay.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Publishing Division within ONE MONTH from the mail date of this decision.

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

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


Liana Walsh
Petitions Examiner
Office of Petitions

Enclosed: Copy of the PTOL-85

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
 or **Fax** (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 02/05/2007

James Gregory Cullem, Esq.
 Intellectual Property Counsel
 CELL SIGNALING TECHNOLOGY, INC.
 166B Cummings Center
 Beverly, MA 01915

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
 I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

_____ (Depositor's name)
_____ (Signature)
_____ (Date)

APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,893	02/12/2004	John Rush	CST-201 CIP	6794

TITLE OF INVENTION: IMMUNOAFFINITY ISOLATION OF MODIFIED PEPTIDES FROM COMPLEX MIXTURES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	05/07/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
DO, PENSEE T	1641	436-518000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
 Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
 "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE _____ (B) RESIDENCE: (CITY and STATE OR COUNTRY) _____

Please check the appropriate assignee category or categories (will not be printed on the patent): Individual Corporation or other private group entity Government

4a. The following fee(s) are submitted:
 Issue Fee
 Publication Fee (No small entity discount permitted)
 Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)
 A check is enclosed.
 Payment by credit card. Form PTO-2038 is attached.
 The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)
 a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____
 Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the **ISSUE FEE** and **PUBLICATION FEE** (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 02/05/2007

James Gregory Cullem, Esq.
 Intellectual Property Counsel
 CELL SIGNALING TECHNOLOGY, INC.
 166B Cummings Center
 Beverly, MA 01915

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

_____ (Depositor's name)
_____ (Signature)
_____ (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,893	02/12/2004	John Rush	CST-201 CIP	6794

TITLE OF INVENTION: IMMUNOAFFINITY ISOLATION OF MODIFIED PEPTIDES FROM COMPLEX MIXTURES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$0	\$1000	05/07/2007

EXAMINER	ART UNIT	CLASS-SUBCLASS
DO, PENSEE T	1641	436-518000

<p>1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).</p> <p><input type="checkbox"/> Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.</p> <p><input type="checkbox"/> "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.</p>	<p>2. For printing on the patent front page, list</p> <p>(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, _____ 1</p> <p>(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. _____ 2</p> <p>_____ 3</p>
--	---

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

<p>4a. The following fee(s) are submitted:</p> <p><input type="checkbox"/> Issue Fee</p> <p><input type="checkbox"/> Publication Fee (No small entity discount permitted)</p> <p><input type="checkbox"/> Advance Order - # of Copies _____</p>	<p>4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)</p> <p><input type="checkbox"/> A check is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).</p>
---	--

5. Change in Entity Status (from status indicated above)

a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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

COPY MAILED

AUG 26 2008

OFFICE OF PETITIONS

In re Application of :
Dobbs, et al. :
Application No. 10/777,917 :
Filed: February 11, 2004 :
Attorney Docket No. 200209626-1 :

ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed July 10, 2008, 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 non-final Office action, mailed on September 10, 2007, which set forth an extendable 3 month period to reply. No extensions of time being obtained pursuant to 37 C.F.R. 1.136(a), the Office contended this application became abandoned on December 11, 2007 for failure to reply to the September 10, 2007 non-final Office action. A Notice of Abandonment was mailed on May 2, 2008.

Petitioners assert that an amendment and a petition for a two month extension of time along with authorization to charge the appropriate fee to petitioners' deposit account were mailed to the Office on February 11, 2008. The original response is not of record in the file and cannot be located. However, the copy of the amendment and the copy of the petition for extension of time submitted with the instant petition contain proper certificates of mailing bearing a February 11, 2008 date of deposit. It is noted that February 10, 2008, the due date for the reply, was a Sunday. Thus, any reply filed on February 11, 2008 with a two month extension of time would be timely filed.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly

addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The amendment and the petition for extension of time bear proper certificates of mailing, dated February 11, 2008, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the person signing the certificates, Attorney Paul F. Rusyn, had reasonable basis to expect that the correspondence would be mailed on February 11, 2008.

The petition is **GRANTED**, the holding of abandonment is withdrawn and the May 2, 2008 Notice of Abandonment is **vacated**.

Deposit account no. 08-2025 will be charged a two month extension of time fee. The mail room date on the payment will be February 11, 2008, which is the certificate of mailing date listed on the petition for extension of time.

The application file will be returned to Technology Center AU 2115 for consideration of the amendment filed on certificate of mailing date February 11, 2008 and re-submitted with the present petition on July 10, 2008.

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



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

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MAY 04 2004

OFFICE OF PETITIONS

In re Application of :
D'Hers, et al. :
Application No. 10/777,918 : **DECISION GRANTING PETITION**
Filed: February 12, 2004 :
Attorney Docket No. MSFT-2927/306959.01 :

This is a decision on the petition filed March 12, 2004, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of February 12, 2004, rather than the presently accorded filing date of February 11, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on February 12, 2004, but that the date-in on the Express Mail label was incorrectly entered as February 11, 2004. In support of the allegation, the petition is accompanied by a copy of the Express Mail postcard with a tracking number EL969195836US showing a "date-in" of February 11, 2004, and a transaction receipt with a date of February 12, 2004 reflecting the same tracking number. The evidence is convincing that the application papers were deposited on February 12, 2004, but that the "date-in" was incorrectly entered as February 11, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is February 12, 2004.

The Office of Initial Patent Examination will further process the application with a filing date of February 12, 2004, and issue a corrected filing receipt.

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

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

Allen, Dyer, Doppelt, Milbrath & Gilchrist - RIM
255 S. Orange Avenue
Suite 1401
Orlando, FL 32801

Mail Date: 04/20/2010

Applicant : David James Clarke : DECISION ON REQUEST FOR
Patent Number : 7644170 : RECALCULATION of PATENT
Issue Date : 01/05/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/777,958 : 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 **1257** 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 : 4/23/08

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction on Patent No.: 7289975

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

Note your decision on the appropriate box.

Approved

All changes apply.

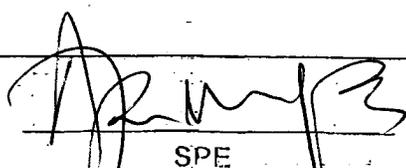
Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:


SPE
(APU MoFZ)

2161
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	US 7, 289,975 B2
DATED	:	October 30, 2007
INVENTOR(S)	:	Clarke et al.

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

Column 11, Line 40	Delete: " to next" Insert: -- to the next --
Column 12, Line 62	Delete: " complex, " Insert: -- complex. --
Column 13, Line 54	Delete: " types interfaces " Insert: -- types of interfaces --
Column 19, Line 66	Delete: " attorney docket number ID-494 " Insert: -- application serial No. 10/777,871 --
Column 20, Lines 2-3	Delete: " attorney docket number ID-493 " Insert: -- application serial No. 10/777,577 --
Column 20, Lines 5-6	Delete: " attorney docket number ID-507 " Insert: -- application serial No. 10/777,958 --
Column 20, Lines 8-9	Delete: " attorney docket number ID-503 " Insert: -- application serial No. 10/778,709 --
Column 20, Line 12	Delete: " attorney docket number ID-502 " Insert: -- application serial No. 10/777,936 --
Column 20, Lines 16-17	Delete: " attorney docket number ID-495 " Insert: -- application serial No. 10/777,731 --

MAILING ADDRESS OF SENDER:
 Christopher F. Regan
 Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
 255 S. Orange Avenue - Suite 1401
 P.O. Box 3791
 Orlando, FL 32802-3791
 PHONE : (407) 841-2330

PATENT NO. US 7,289,975 B2



TEJPAL S. HANSRA
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of
Zoran Coric
Application No. 10/778, 001
Filed: February 11, 2004
Attorney Docket No. 3123-546

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 16, 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 Tejpal S. Hansra on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

There are no pending office actions at the present time.

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



April M. Wise
Petitions Examiner
Office of Petitions

cc: ZORAN CORIC
1610 WORCESTER ROAD
APT. 133A
FRAMINGHAM, MA 01702

cc: SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY -- SHK2LG
1280 DISC DRIVE
SHAKOPEE, MN 55379



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
10/778,001	02/11/2004	Zoran Coric	3123-546

23043
 SEAGATE TECHNOLOGY LLC
 INTELLECTUAL PROPERTY -- SHK2LG
 1280 DISC DRIVE
 SHAKOPEE, MN 55379

CONFIRMATION NO. 3362
 OC000000021823603
 OC000000021823603

Date Mailed: 01/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/16/2006.

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


 APRIL M WISE
 OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

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

DINSMORE & SHOHL LLP
FIFTH THIRD CENTER, ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402-2023

Mail Date: 04/26/2010

Applicant : Zakar Raffi Hachikian : DECISION ON REQUEST FOR
Patent Number : 7608672 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/778,008 : 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 **1268** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 5, 2010
TO SPE OF : ART UNIT 3723
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/778016 /Patent no. 7363673

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**

Magdalene Talley

**Certificates of Correction Branch
571-272-0423**

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: _____

Joseph J. Walker

3723



UNITED STATES PATENT AND TRADEMARK OFFICE

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

**SIEMENS SCHWEIZ AG
I-47, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH CH-80-47 CH SWITZERLAND**

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of :
Kohlen et al. :
Application No. 10/778,037 :
Filed: February 17, 2004 :
Attorney Docket No. 2001P80115WOUS :

ON PETITION

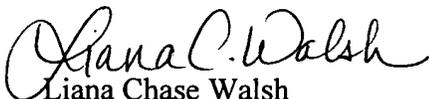
This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 19, 2006, to revive the above-identified application.

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; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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


Liana Chase Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Paper No.

COPY MAILED

DEC 29 2004

OFFICE OF PETITIONS

In re Application of :
Ferdinand Bodenstorfer :
Application No. 10/778,049 : DECISION ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. BODENSTORFER1 :

This is in response to the "PETITION" filed October 26, 2004. Petitioner requests that the Notice of Omitted Items in a Nonprovisional Application mailed September 30, 2004, in the above-identified application be withdrawn on the grounds that the alleged missing page was filed with the Application. In effect, petitioner requests that the application be accorded a filing date of February 17, 2004, with page 2 of the specification considered a part of the original application disclosure.

Application papers in the above-identified application were filed on February 17, 2004. However, on September 30, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, page 2 of the specification appeared to have been omitted.

In reply, petitioner timely filed the instant petition. Petitioner asserts that the application as filed on February 17, 2004, included page 2 of the specification. In support thereof, petitioner submitted a copy of their PTO filing receipt and of their application transmittal. Petitioner also submitted a copy of page 2 as petitioner maintains it was filed on February 17, 2004.

The evidence has been considered, but is not persuasive that page 2 of the specification was among the papers filed on February 17, 2004. The PTO file is the official record of the papers originally filed in this application. A review of the official file reveals that no page 2 was filed on February 17, 2004, since no page 2 is present in the image file wrapper. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. For this purpose, applicants have submitted a copy of their "PTO filing receipt."

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. However, a 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. See MPEP 503.

A review of petitioner's receipt card reveals that it bears an OIPE stamp reflecting a date of receipt of February 17, 2004; and it lacks any notation of non-receipt of any item listed. However, with respect to the missing page 2 of the specification, it is noted that the receipt requests acknowledgment of receipt of "☐ SPECIFICATION AND CLAIMS (16 pages)." The ambiguity arises in that 16 pages are present in the application, including the abstract, but not including page 2 of the specification. Thus, upon receipt of this postcard, it would not have been proper for the Office to make a notation that the noted 16 pages were not present. Yet, at the same time, the absence of the notation is consistent with 16 pages, including the abstract, but not including page 2 of the specification being received in the Office on February 17, 2004. Furthermore, the receipt specifically identifies the rest of the papers being filed, but does not itemize 1 page of abstract apart from the specification.

It is concluded that the receipt card evidence is not *prima facie* evidence of the filing of the page 2 of the specification on February 17, 2004. Moreover, this evidence does not overcome the conclusion that the application file reflects what was received in the Office on February 17, 2004. Thus, the application cannot be accorded a filing date of February 17, 2004 with page 2 as a part of the original application disclosure.

Accordingly, the petition is **DISMISSED**.

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

The Office of Initial Patent Examination has been advised of this decision. The application with a filing date of February 17, 2004, is, thereby, being returned to the Office of Initial Patent Examination, for processing using the papers received in the Office on that date.

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


Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

COPY MAILED

SEP 11 2008

In re Application of :
Koubarous et al. :
Application No.: 10/778090 : ON PETITION
Filing or 371(c) Date: 02/17/2004 :
Attorney Docket Number: :
NPW014US :

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed July 27, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed January 2, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on April 3, 2008. A Notice of Abandonment July 25, 2008.

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

This application is being referred to Technology Center Art Unit 2624 for processing of the Amendment filed with the petition in due course.

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

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



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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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SEP 11 2008

In re Application of :
Koubaroulis et al. :
Application No. 10/778090 :
Filing or 371(c) Date: 02/17/2004 : ON PETITION
Attorney Docket Number: NPW014US :

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), and on the request for a refund, filed July 27, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed January 2, 2008. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 3, 2008. A Notice of Abandonment was mailed July 25, 2008.

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

The application is being referred to Technology Center Art Unit 2624 for processing of the Amendment/reply filed with the petition in due course.

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

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



KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

COPY MAILED

NOV 26 2004

In re Application of :
Richardson and Chouinard :
Application No. 10/778,099 :
Filed: February 17, 2004 :
Attorney Docket No. 2207/603202 :
For: System And Method For :
Regulating The Flow Of Information :
To Or From An Application :

OFFICE OF PETITIONS
: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed June 16, 2004 and again on August 13, 2004.

The petition is **dismissed**.

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

The above-identified application was filed on February 17, 2004, naming John W. Richardson and David A. Chouinard as joint inventors. The declaration submitted on filing was missing the signature of David Chouinard. Accordingly, on May 11, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring the signature of inventor Chouinard on the declaration and a \$130.00 surcharge for its late filing.

In response, on June 16, 2004, applicant filed a correspondence which is being treated as a petition under 37 CFR 1.47(a), a copy of the declaration signed by inventor Richardson, a Declaration of Facts of Gary S. Morris, and an authorization to charge the necessary fees. In the Declaration of Facts, Mr. Morris explained that he conducted an on-line search for the legal representative, Karen Chouinard, but was unable to locate her to

On July 9, 2004, the Office mailed a Notice of Incomplete Reply, stating that the signature of David A. Chouinard was missing on the declaration. On August 13, 2004, applicant again filed a petition under 37 CFR 1.47.

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

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

As to item (2), the declaration does not indicate the residence or post office address of the legal representative. When an application is filed on behalf of a legal representative, the oath or declaration for the patent application must be signed by the available joint inventors on behalf of the legal representative. The name, residence, post office address and citizenship of the legal representative must be stated in the declaration in addition to that of the deceased inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the available joint inventor on behalf of himself and the legal representative is REQUIRED. See MPEP 409.03(a). Enclosed is a copy of a supplemental sheet for the legal representative. Applicant is encouraged to use the supplemental sheet to identify the information pertaining to the legal representative.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/02LR



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1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005

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JAN 24 2005

OFFICE OF PETITIONS

In re Application of :
Richardson and Chouinard :
Application No. 10/778,099 : DECISION ACCORDING STATUS
Filed: February 17, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 2207/603202 :
For: System And Method For :
Regulating The Flow Of Information :
To Or From An Application :

This is in response to the renewed petition under 37 CFR 1.47(a),
filed December 21, 2004.

The petition is granted.

Petitioner has shown that the legal representative of the
deceased non-signing inventor cannot be located after diligent
efforts.

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 legal representative
at the address given in the Declaration. Notice of the filing of
this application will also be published in the Official Gazette.

This matter 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Karen Chouinard
13032 S.W. Laurmont Drive
Tigard OR 97223

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JAN 24 2005

OFFICE OF PETITIONS

In re Application of :
Richardson and Chouinard :
Application No. 10/778,099 : LETTER
Filed: February 17, 2004 :
Attorney Docket No. 2207/603202 :
For: System And Method For :
Regulating The Flow Of Information :
To Or From An Application :

Dear Ms. Chouinard:

You are named as a legal representative of inventor Chouinard 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 legal representative.

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

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

KENYON & KENYON
1500 K STREET, N.W., SUITE 700
WASHINGTON DC 20005



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JAN 22 2007

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

In re Application of :
Lee, et al. : DECISION ON PETITION
Application No. 10/778,126 :
Filed: February 17, 2004 :
Atty. Dkt. No.: 2557-000197/US :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed December 1, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned for failure to timely submit a proper reply to the final Office action mailed February 21, 2006. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed October 5, 2006.

Petitioners argue that a proper response to the final Office action was timely submitted May 22, 2006.

Review of Office records reveals that the response, received at the USPTO on May 22, 2006, while intended for instant application did not include the correct application serial number. As a result of applicants' error, the application was held abandoned.

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 response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicants are 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.

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

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

This application is being forwarded to Technology Center 2800 for further processing.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions



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 :05/03/07

Patent No. : 7188419 B2
Ser. No. : 10/778,139
Inventor(s) : SILVERBROOK, KIA
Issued : 03/13/07
Title : **METHOD OF PRODUCING NOZZLE PLATE FORMED IN-SITU ON
PRINTHEAD SUBSTRATE**
Docket No. : MJT014US

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.117(h) (currently \$130);**
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.**

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

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

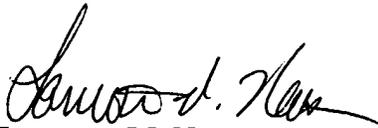
By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.



Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

LMN



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MAY 14 2008

OFFICE OF PETITIONS

In re Patent No. 7,188,419 :
Application No. 10/778,139 :
Filed: February 17, 2004 :
Issued: March 13, 2007 :
Attorney Docket No. MJT014US :

ON PETITION

This is a decision on the petition filed April 22, 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**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

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



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

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JAN 09 2006

OFFICE OF PETITIONS

In re Application of :
Raymond Chan :
Application No. 10/778,163 :
Filed: February 17, 2004 :
Attorney Docket No. 402980 :

ON PETITION

This is a decision on the petition, filed January 5, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 18, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2632 will consider the request for continued examination under 37 CFR 1.114.


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

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



wk

Mailed: 10/17/06

In re application of :
Lin et al. :
Serial No. 10/778,173 :
Filed: February 17, 2004 :
For: Titanium Alloy Compositions Having A Major Phase of α :

DECISION ON
PETITION

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) TO WITHDRAW NOTICE OF ABANDONMENT, filed March 7, 2005. The petition requests that the abandonment, as set forth in the Notice of Abandonment mailed March 2, 2005 be withdrawn. A review of the file shows that applicant's petition was never addressed.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee). The examiner mailed an office action on June 17, 2004 and applicants filed a response on September 10, 2004. Applicant has provided proof that the Office received the response.

The Petition is **GRANTED**.

The abandonment is withdrawn in view of applicant's response of September 10, 2004. Applicant's response will be entered into the file and the application will be forwarded to the examiner for consideration of applicant's response.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

Richard E. Fichter
Bacon & Thomas, PLLC
625 Slaters Lane - 4th FL.
Alexandria, Virginia 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/24/06

Paper No.:

TO SPE OF : ART UNIT 2834

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/778174 Patent No.: 6903480 B2

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

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

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

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

change in inventors' format
of names, but same inventors

Tran Nguyen

TRAN NGUYEN
PRIMARY EXAMINER

2834

SPE

Art Unit



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

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MAR 01 2010

In re Patent of Matsunaga et al.	:	DECISION ON REQUEST
Patent No. 7,561,991	:	FOR RECONSIDERATION OF
Issue Date: July 14, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/778,178	:	AND NOTICE OF INTENT TO
Filing Date: February 17, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 016778-0472	:	CORRECTION

This is a decision on the petition filed on August 25, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-five (1,025) days.

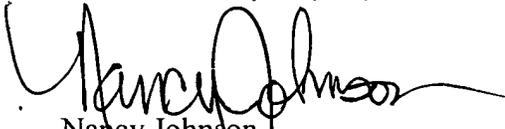
The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-five (1,025) days is **GRANTED to the extent indicated herein.**

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 18, 2007, and ends on July 2, 2008, the day before the RCE was filed, and not July 3, 2008, the day of filing of the RCE as apparently calculated by patentees. See 35 U.S.C. 154(b)(1)(B)(i). As such, the correct patent term adjustment is 1,024 days, not 1,025 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 twenty-four (1,024) days.**

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,561,991 B2
ISSUE DATE : July 14, 2009
INVENTOR(S) : Matsunaga et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 523 days.

Delete the phrase "by 523 days" and insert - by 1,024 days--



LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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APR 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Huang et al.	:	
Application No.: 10/778184	:	DECISION ON
Filing or 371(c) Date: 02/17/2004	:	PETITION
Attorney Docket Number: 3079/207	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed January 11, 2007. The petition is properly treated under 37 C.F.R. § 1.181(a). The delay in treating this petition is regretted.

This Petition is **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 27, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). The Office action was returned undelivered by the United States Postal Service ("USPS") to this office on March 31, 2006. A Notice of Abandonment was mailed on October 11, 2006.

Applicant's assertion

Applicant asserts that the Office action was mailed to an incorrect address. Applicant asserts that Applicant's Customer Number was properly identified on the Application Transmittal filed on February 17, 2004, and, in accordance with the MPEP 601.03, if more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with the customer number, if given, over a typed correspondence address. In this instance, Applicant asserts that this Office inadvertently entered the typed correspondence address.

Applicable Law, Rules and MPEP

37 CFR 1.33, Correspondence respecting patent applications, reexamination proceedings, and other proceedings, provides, in relevant part,

(a) If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address.

A review of the application file reveals that applicant included specific instructions in the oath/declaration filed with the application on February 17, 2004, to send correspondence to an Arlington, Virginia address. A review of the Transmittal Form filed with the application and referred to by Applicant reveals that it does not include any instructions regarding the correspondence address, but includes a customer number on the second page of the Transmittal Form.

The MPEP 601.03 explains as follows:

37 CFR 1.33(a) provides that the application must specify a correspondence address to which the Office will send notice, letters, and other communications relating to an application. The correspondence address must either be in an application data sheet (37 CFR 1.76) or in a clearly identifiable manner elsewhere in any papers submitted with the application filing. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. Additionally, applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use non-matching correspondence addresses in more than one paper, priority will be accorded to the correspondence address specified in the following order: (A) Application data sheet (ADS); (B) application transmittal; (C) oath or declaration (unless power of attorney is more current); and (D) power of attorney.

Here, Applicant did not specify a correspondence address to which the Office would send correspondence in more than one paper. The Transmittal Form did not specify that this Office was to use the customer number for the correspondence address. There were no specific instructions directing the Office to use the correspondence address or Customer Number appearing in the Transmittal Form.

Instead, it was the oath/declaration, and only the oath/declaration that included specific instructions as to where to send correspondence. This Office followed the instruction appearing in the oath/declaration and mailed correspondence to the address appearing thereon as instructed by Applicant.

It is also noted that a Notice of Publication of Application was also mailed to Applicant more than 18 months after the application was filed, and was returned undelivered by the USPS to this office on September 1, 2005. The non-final Office action was mailed more than six months after the Notice of Publication of Application had been returned to this Office as undeliverable, on March 27, 2006, and more than two years after the application was filed. As Applicant notes in the petition, he became aware of the status of the application only after receiving a communication from Applicant inquiring about the status of the application. More than two and a half years had passed since the filing of this application and before Applicant became aware that the application was abandoned. Diligence requires an Applicant to keep apprised as to the status of his or her application. See, Winkler v. Ladd, 221 F.Supp. 550 (D.D.C. 1963).

The petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

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

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

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

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

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


Derek L. Woods
Attorney
Office of Petitions



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

LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of :
Huang et al. :
Application No.: 10/778184 :
Filing or 371(c) Date: 02/17/2004 :
Attorney Docket Number: 3079/207 :

DECISION ON
PETITION

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed January 11, 2006. The petition is properly treated under 37 C.F.R. § 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed March 27, 2006. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). The Office action was returned undelivered by the United States Postal Service ("USPS") to this office on March 31, 2006. A Notice of Abandonment was mailed on October 11, 2006.

Applicant filed a petition to withdraw the holding of abandonment on January 11, 2007, which was dismissed in a Decision mailed April 4, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

The present petition

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence¹.

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.

¹ Applicant has demonstrated the timely filing of a Change of Correspondence Address; however, the Office action was inadvertently mailed to an incorrect correspondence address.

The application will be referred to Technology Center Art Unit 1713 for re-mailing of the Office action.

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


Derek L. Woods
Attorney
Office of Petitions



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

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W., Suite 800
Washington, DC 20037

DEC 6 2005

In re Application of:
TANAKA *et al.*
Serial No.: 10/778,194
Filed: February 17, 2004
Attorney Docket No.: Q79782

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed February 23, 2005. The petition has been treated as a petition filed under 37 C.F.R. § 1.181, to withdraw the holding of abandonment in the above-identified application. No petition fee is required.

The request is **GRANTED**.

The application was held abandoned for the failure to timely file a response to the non-final Office action mailed on August 11, 2004. A Notice of Abandonment was mailed on February 16, 2005.

Petitioner asserts that on February 11, 2005, a response and a petition for a three-month extension of time were timely filed in the above-identified application. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard, which acknowledges receipt in the USPTO of the response on February 11, 2005.

A review of the application file reveals the above noted response was not matched with the application file wrapper at the time of mailing of the Notice of Abandonment. The above-identified response filed February 11, 2005, has since been located and matched with the file wrapper.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

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

Arthur T. Grimley, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Yoshioka, Jun	:	DECISION ON PETITION
Application No. 10/778,209	:	TO WITHDRAW
Filed: February 17, 2004	:	FROM RECORD
Title: 8200.799	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206.

David Bucci
Petitions Examiner
Office of Petitions



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PEPPER HAMILTON LLP
ONE MELLON CENTER
50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

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SEP 28 2006
OFFICE OF PETITIONS

In re Application of :
Thomas Mitts et al :
Application No. 10/778,253 : **ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. 126595.101 :

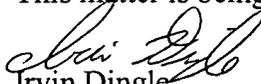
This is a decision on the petition under 37 CFR 1.137(b), filed June 30, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed September 6, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 7, 2005.

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



**PROGENICS PHARMACEUTICALS, INC.
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206**

MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Application of :
Foss et al. :
Application No. 10/778,268 : DECISION ON PETITION
Filed: February 12, 2004 :
Attorney Docket No. P0453.70113US02 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 3, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to respond to the non-Final Office action mailed December 30, 2008, which set a statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, by operation of law, the above-identified application became abandoned on March 31, 2009.

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

With regards to item (1) the petition submitted is not accompanied by the required reply. Petitioner has submitted a "Conditional Petition to revive under 1.137(b)". The USPTO does not accept conditional petitions. Petitioner is required to decide one course of action and provide no "alternative resolutions". Accordingly, petitioner is required to file a petition based on the status of the application.

Any renewed petition may be addressed as follows:

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

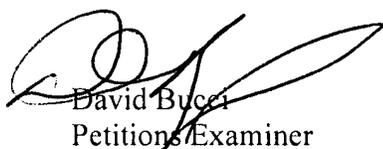
By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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


David Bucca
Petitions Examiner
Office of Petitions



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PROGENICS PHARMACEUTICALS, INC.
c/o WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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MAR 02 2010

OFFICE OF PETITIONS

In re Application of :
Foss et al. :
Application No. 10/778,268 : **DECISION ON PETITION**
Filed: February 12, 2004 :
Attorney Docket No. P0453.70113US02 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 9, 2009, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed December 30, 2008, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained on June 30, 2009. A Notice of Abandonment was mailed on November 4, 2009.

Petitioner contends that the reply was in fact timely filed. A review of USPTO records confirms the submissions filed on April 3, 2009 and June 30, 2009 were timely.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Further, the petition under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT**.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the large entity \$1,620.00 petition fee submitted with the 1.137(b) will be credited to petitioner's Deposit Account in due course.

Further, although the petition is signed by the attorney of record it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number. However, the accompanying document does include

the signature and registration number for Edward R. Gates, the attorney of record.
Therefore, the petition is accepted as being properly signed.

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

This matter is being referred to Technology Center AU 1641 for appropriate action in the normal
course of business on the reply received with the petition on April 3, 2009.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

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MAR 06 2007

OFFICE OF PETITIONS

In re Application of :
Mital et al. :
Application No. 10/778,275 : DECISION ON PETITION
Filed: 13 February, 2004 :
Attorney Docket No. 8317-15 :

This is a decision on the petition filed on 27 October, 2006, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 28 April, 2006, for failure to timely file a response to the Office action requiring restriction and/or election, mailed on 27 March, 2006, which set a one (1) month or 30 day shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 2 November, 2006.

Petitioner has filed an amendment including an election in response to the restriction requirement.

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

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

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

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

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

The 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 27 October, 2006, was submitted more than five (5) months after the end of the period for reply to the Office communication mailed on 27 March, 2006, and therefore is unnecessary. The extension of time fee paid on 27 October, 2006, will be credited to counsel's deposit account.

The revocation and power of attorney filed with the present petition cannot be accepted because it is signed on behalf of an assignee, but does not include the statement under 37 CFR 3.73(b) as required by 37 CFR 3.71. A new power of attorney including the required statement should be filed. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application is being forwarded to Technology Center Art Unit 3748 for further processing.

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


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: MICHAEL E. TAKEN
ANDRUS, SCEALES, STARKE & SAWALL LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

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



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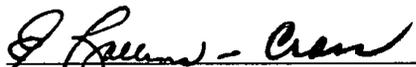
JUL -2 2004

In re Application of :
Walter G. Pearson :
Serial No. 10/778,283 : DECISION ON PETITION
Filed: February 13, 2004 : TO MAKE SPECIAL
For: PACKAGING SYSTEM AND :
RELATED METHOD :

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

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

PETITION GRANTED.



E. Rollins-Cross, Director
Technology Center 3700

R. Andrew Patty, II
Sieberth & Patty
2924 Brakley Drive, Suite A1
Baton Rouge, LA 70816



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Fasth Law Offices (Rolf Fasth)
26 Pinecrest Plaza, Suite 2
Southern Pines, NC 28387-4301

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of :
Fredrik Orava, et. al. :
Application No. 10/778,291 : ON PETITION
Filed: February 12, 2004 :
Attorney Docket No. 137.1022CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed February 24, 2005, to revive the above-identified application.

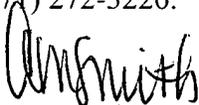
The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed May 12, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight July 12, 2004.

In response to the Notice, petitioner hereby submits \$750 for the petition to revive fee, four (4) sheets of corrected drawings, and the statement of unintentional delay as required by 37 CFR 1.137(b).

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



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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

MAILED

MAY 12 2005

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2800**

In re Application of
IKEUCHI, KATSUSHI, et al
Serial No.: 10/778,308
Filed: February 17, 2004
For: **APPARATUS AND METHOD FOR
GENERATING IMAGE**

:
:
:
: **DECISION ON PETITION**
: *ACCEPTANCE OF COLOR DRAWINGS*
:

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, February 17, 2004, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 3-5, be accepted in lieu of black and white drawings.

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

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

The petition is **GRANTED**.



Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 11 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DECISION
ON PETITION

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

In re Application of:
KAWASHIMA, IWAO
Application Serial No.: 10/778,361
Filed: April 17, 2004
For: **DIGITAL CAMERA**

This is a decision on the petition to withdraw the final action as premature, filed November 5, 2007, pursuant to 37 CFR § 1.181.

Petitioner alleges that the examiner erred in holding the Office action mailed October 17, 2007 final and requests withdrawal of finality of the Office action.

A non-final Office action was mailed on May 3, 2007. Applicant filed an amendment to the claims on August 3, 2007, specifically amending the independent claim. On October 18, 2007 the Office mailed a final Office action.

Petitioner argues that the amendment to claim 1 "was merely **editorially** amended" which would not necessitate the new grounds for rejection. Petitioner further argues that the Examiner's new search and subsequent new grounds of rejection were clearly not based on Applicant's amendment of the claims.

MPEP §706.07(a) [R-1] Final Rejection, When Proper on Second Action, states in part:
Due to the change in practice as affecting final rejections, older decisions on questions of prematurity of final rejection or admission of subsequent amendments do not necessarily reflect present practice.
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).

Applicant admits, and the file record confirms that independent claim 1 was amended in applicant's response of August 3, 2007. Therefore, the issue to be addressed in determining the appropriateness of the finality of the October 18, 2007 Office action, is whether or not applicant's response necessitated the examiner's new ground of rejection.

A review of claim 1 as representative of the amendments made by the applicant, reveals the following alterations.

1. (Currently Amended) A digital camera in which ISO sensitivity of an image sensor and a color reproduction of a photographed image are **adjusted**

adjustable, said photographed image being reproduced in a monitor, said digital camera comprising:

a memory for storing an image quality selection pattern adapted to designate only plural ISO sensitivity levels of said ISO sensitivity and plural color reproducing conditions of said color reproduction;

a function inputting device for ~~reading-out~~selecting said image quality selection pattern from said memory to display said image quality selection pattern on said monitor; and

a designation device for designating one of said plural ISO sensitivity levels and one of said plural color reproducing conditions on said image quality selection pattern which is displayed on said monitor.

A comparison of the rejection of May 3, 2007 and the final rejection of October 18, 2007, reveals for claim 1 the same statement of rejection was used. That is "Claims 1-3 are rejected under 35 USC 103(a) as being unpatentable over Battles et al (US PG-PUB # 2004/0095480)." The only difference in the body of the rejection in the final rejection is the addition of the text,

Battles teaches that in one embodiment, menu 302 comprises at least one menu option (Paragraph 46). Therefore it would have been obvious to one skilled in the art to have been motivated at the time of the invention to be a matter of design choice to have only ISO and color reproducing function only be incorporated in the GUI of the image capturing device or any other menu option to be used in any combination (only one or two options or multiple options) taught by Battles to be within the level of one skilled in the art.

The element and function, "memory for storing an image quality selection pattern adapted to designate plural ISO sensitivity levels..." as originally claimed implies the image quality selection pattern may designate more than just plural ISO sensitivity levels and color reproducing conditions as claimed (open ended phrase).

The addition of the word only after "designate" in the phrase as the amendment of August 3, 2007 claims, implies only ISO sensitivity levels and color reproducing conditions may be designated as claimed (closed ended phrase).

It is apparent that applicant has altered the scope of the representative claim in order to overcome the examiner's position. The above noted addition to the body of the examiner's final rejection with respect to claims 1-3 is clearly in reference to this change in the claim.

Therefore, applicant's amendment necessitated the examiner's new ground of rejection and in accordance with MPEP §706.07(a), the next action was appropriately made final based upon the new grounds of rejection.

Accordingly, the petition to withdraw finality is **DENIED**.

Any request for reconsideration must be filed within two months form the date of this decision. The shortened statutory period of three months set forth in the final Office action mailed October 18, 2007 continues to run.



Andrew I. Faile, Director
Technology Center 2600
Communications



Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

DEC 03 2008

In re Application of:
KIM, SU_HYUN, et al.
Application No. 10/778,363
Filed: February 17, 2004
For: TRANSMITTING PACKETS BETWEEN
PACKET CONTROLLER AND NETWORK
PROCESSOR

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

This is a decision on the petition filed under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed September 30, 2008.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action mailed September 30, 2008. In the petition, Applicant's counsel alleged that the finality of the office action was improper because the Examiner introduced a new ground of rejection in the Final Office Action to reject claims 12 and 27 that were not revised by the June 4, 2008 Amendment. Applicant's counsel also requested to restart the period for response.

A review of the file indicates that claims 12 and 27 were not amended, and they were rejected on the basis of new art. Therefore, the finality of the Office action of September 30, 2008 is improper and hereby withdrawn. Because the error does not effect applicant's ability to reply to the Office action, the period for response remains as set forth in the Office action of September 30, 2008, MPEP 710.06.

Accordingly, the petition is **GRANTED IN PART.**

Any inquiry concerning this decision should be directed to Chau T. Nguyen at (571) 272-3126.

Chau T. Nguyen
Workgroup Quality Assurance Specialist
Technology Center 2400



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Michael G. Petit
P. O. Box 91929
Santa Barbara CA 93190-1929

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Schryver	:	
Application No. 10/778,366	:	ON PETITION
Filed: February 12, 2004	:	
Attorney Docket No. 02SSF1	:	
For: HYBRID EXTRUDED ARTICLES AND METHOD	:	

This is a decision on the petition, filed January 23, 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 timely submit a reply within three (3) months of the mailing of the June 8, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on September 9, 2006. A Notice of Abandonment was mailed on December 22, 2006.

Applicant has submitted an amendment in reply to the June 8, 2006 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 8, 2006 non-final Office action, and the \$750.00 petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 1772 for consideration of the amendment filed on January 23, 2007.

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



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



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

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OCT 08 2008

OFFICE OF PETITIONS

In re Application of
Timothy B. Ely, et al.
Application No. 10/778,430
Filed: February 16, 2004
Attorney Docket No. 450634.00012

:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 1, 2008.

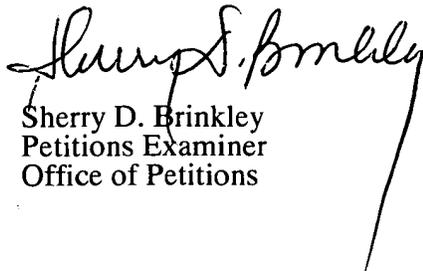
The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 24, 2008, which set a statutory period for reply of three (3) months. On July 1, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on July 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 the \$1,440 issue fee and the \$300 publication fee; (2) the petition fee of \$1,540; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



**3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL MN 55133-3427**

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OCT 03 2005

OFFICE OF PETITIONS

In re Application of :
Frank J. Bottari et al :
Application No. 10/778,431 :
Filed: February 16, 2004 :
Attorney Docket No. 56989US010 :

ON PETITION

This is a decision on the petition, filed September 30, 2005, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for express abandonment. See 37 CFR 1.313(c)(3). The above-identified application is expressly abandoned in favor of a continuing application filed April 27, 2005.

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

This matter is being referred to Files Repository.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080430

DATE : April 30, 2008

TO SPE OF : ART UNIT 2153

SUBJECT : Request for Certificate of Correction on Patent No.: 6,959,325

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

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance

Certificates of Correction Branch

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

Note your decision on the appropriated box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

SPE: /Glenton B. Burgess/

Art Unit 2153

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/03/09

TO SPE OF : ART UNIT 2621

SUBJECT : Request for Certificate of Correction for Appl. No.: 10778464 Patent No.: 7532804

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Director's/SPE response to 671-270-9990

Lamonte Newsome

**Certificates of Correction Branch
703-756-1574**

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

THAO TRAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2621



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Allen, Dyer, Doppelt, Milbrath & Gilchrist - RIM
255 S. Orange Avenue
Suite 1401
Orlando, FL 32801

Mail Date: 04/20/2010

Applicant	: Darren L. Gardner	: DECISION ON REQUEST FOR
Patent Number	: 7603419	: RECALCULATION OF PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/778,468	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



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

Mail Date: 04/21/2010

Applicant	: Darren Neuman	: DECISION ON REQUEST FOR
Patent Number	: 7595843	: RECALCULATION OF PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/778,474	: 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 **1545** 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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Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, NY 13202-1355

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FEB 09 2005

OFFICE OF PETITIONS

In re Application of :
Theron A. Wildey, et al. :
Application No. 10/778,481 : **ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. 230P160 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

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

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



BIOTECHNOLOGY LAW GROUP
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS MN 55402

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MAR 17 2008

In re Application of :
McGettrick. :
Application No. 10/778,506 : DECISION
Filed: 13 February, 2004 :
Attorney Docket No. JMG-1001-UTL1 :

This is a decision on the petition filed on 23 July, 2007, and supplemented on 22 and 28 February, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

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

BACKGROUND

The record reflects that:

- o Petitioner failed to reply timely and properly to the non-final Office action mailed on 25 July, 2005, with reply due absent extension of time on or before 25 October, 2005;
- o the application went abandoned by operation of law after midnight 25 October, 2005;
- o the Office mailed the Notice of Abandonment 21 March, 2006;

Application No. 10/778,506

- on 25 July, 2007, Petitioner submitted the instant petition with fee, the reply in the form of an amendment, and made the statement of unintentional delay;
- 22 February, 2008, Petitioner filed a Notice of Change of Address, and a statement that he filed the original petition as soon as he learned of the abandoned status of the instant application;
- on 28 February, 2008, Petitioner detailed the history herein indicating that he had moved his offices at about the time that the reply was due in the instant application, and that in the process of the move he failed to file a reply to the outstanding Office action and to the Notice of Abandonment; further, Petitioner also obtained the services of Intellevate LLC/CPA Global not only to receive Office mailings on his behalf, but also to monitor and search constantly Petitioner's applications to seek out and identify applications to overcome occurrences such as the instant matter where paper documents do not get timely matched into a file for response.

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.

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

² See: In re Application of G., 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

Application No. 10/778,506

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).³

And the Petitioner must be diligent in attending to the matter.⁴ Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.⁵))

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

Petitioner appears to have satisfied the requirements under the regulation.

CONCLUSION

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

The instant application is released to Technology Center/AU 3676 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

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: *Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment*, 1124 *Off. Gaz. Pat. Office* 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 *Off. Gaz. Pat. Office supra*.

⁵ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Application No. 10/778,506

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. §1.2⁶) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



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

⁶ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Shriram Ramanathan	: DECISION ON REQUEST FOR
Patent Number	: 7589417	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/778,514	: 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 **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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Qualcomm Incorporated
5775 Morehouse Drive
San Diego, CA 82121

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MAY 28 2008

OFFICE OF PETITIONS

In re Application of :
Tamer Kadous :
Application No. 10/778,570 : DECISION ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. 030548 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 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 June 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2007. A Notice of Abandonment was mailed on January 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of \$1540.00, and (3) a proper statement of unintentional delay. Accordingly the amendment is accepted as being unintentionally delayed.

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.

The terminal disclaimer filed along with the petition on March 4, 2008 is unnecessary. As such the fee paid of \$130 will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received March 4, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions



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NIXON PEABODY LLP
300 S. Riverside Plaza
16th Floor
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant : Allon G. Englman : DECISION ON REQUEST FOR
Patent Number : 7628690 : RECALCULATION of PATENT
Issue Date : 12/08/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/778,574 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/13/2004 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1260** 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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CARSON FINCHAM
WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD CT 06905

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MAR 06 2007

In re Application of :
WALKER et. al. : **OFFICE OF PETITIONS**
Application No. 10/778,576 : **DECISION ON PETITION**
Filed: February 13, 2204 :
Attorney Docket No. 03-008A :

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed March 19, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed on July 20, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). **The instant petition lacks item (1).**

The petition is missing the required reply to the non-final Office Action mailed on July 20, 2005. A copy of the non-final Office Action is attached to this decision for petitioner's perusal.

Petitioner states that applicants did not receive any communications from the USPTO including the Office Action mailed on July 20, 2005 as evidence by their submitted docketing reports.

The file record shows that the Office Action dated July 20, 2005 was returned to the USPTO on August 4, 2005 by the U S Postal Service as undeliverable. A review of the file record indicates that the Office Action was mailed to the correct correspondence address and addressed to the correct attorney listed on the declaration and power of attorney filed on February 13, 2004. No subsequent change of address was found in this application. Accordingly, the record shows that applicants did not receive the office action even though it was sent to the appropriate address.

To avoid further confusion, the listed correspondence address of record and the power of attorney in this application has been set to the customer number 22927 shown on the declaration and power of attorney filed on February 13, 2004. If this is incorrect, a change of address should be filed in this application in accordance with MPEP 601.03.

The petition fee under 37 CFR 1.17(l) for large entity status has been accepted.

It is noted that petitioner states that a Notification of Loss of Entitlement of Small Entity Status was filed on October 14, 2004. No record of this paper has been found in this application. Petitioner should resubmit the correspondence with the appropriate return postcard receipt in order to ensure accurate file records.

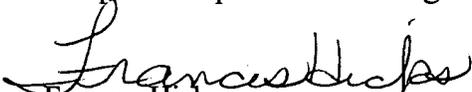
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.


Frances Hicks
Petitions Examiner
Office of Petitions

Attachment:
Copy of non-final office action dated July 20, 2005



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.
10/778,576	02/13/2004	Jay S. Walker	03-008A	7059
7590	07/20/2005			
Dean P. Alderucci Five High Ridge Park Stamford, CT 06905				
EXAMINER MOSSER, ROBERT E				
ART UNIT		PAPER NUMBER		
3714				

DATE MAILED: 07/20/2005

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

Talk

Office Action Summary	Application No. 10778,576	Applicant(s) WALKER ET AL	
	Examiner Robert Mosser	Art Unit 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) 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 the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- 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 _____.
- 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) 1-20 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) 1-20 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 Draftperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 5/17/04, 2/13/04.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

Art Unit: 3714

DETAILED ACTION

◆
This action is non-final.

Claims 1-20 are pending.

◆
Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49 of U.S. Patent No. 6,203,430. Although the conflicting claims are not identical, they are not patentably distinct from each other.

The limitations of the instant claims including a method and a gaming device with a processor that tracks and counts the occurrence of a tracked symbol, increments or

Art Unit: 3714

decrements the count value associated with the occurrence of the tracked symbol and associates an expiration condition and bonus payout based on the occurrence of the tracked symbol are taught by the claims of US 6,203,430.

Claims 1-20 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 50-77 of copending Application No. 09/716918.

This is a provisional obviousness-type double patenting rejection.

The limitations of the instant claims including a method and a gaming device with a processor that tracks and counts the occurrence of a tracked symbol, increments or decrements the count value associated with the occurrence of the tracked symbol and associates an expiration condition and bonus payout based on the occurrence of the tracked symbol are taught by the claims of Application No. 09/716918.

Claim Rejections - 35 USC § 102

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.

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Claims 1, 2, 6, 7, 9-15, and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Barrie (US 5833,537)

Regarding claims 1, 2, 6, 7, Barrie teaches generating at least one outcome wherein each outcome includes a plurality of instances selected from a plurality of machine symbols (Figure 1 & Abstract). The set of machine symbols including a plurality of persistent (predetermined) slot machine symbols (124a, 124b, 124c) wherein on the occurrence of a persistent symbol a running count is adjusted in a respective counting grid (142, 144, Figure 7) respectively. The symbols of Barrie further expire due to the passage of time and/or the playing a predetermined number of subsequent rounds (Abstract). Barrie additionally teaches the awarding of a bonus payout as determined by the count present in the counting grid (Figure 5).

Regarding claims 9, 12, 14, and 15, Barrie teaches awarding payouts (Figure 3 & Element 326) in response to the count and a placed wager(312), where the count excludes expired symbols (322).

Regarding claims 10, 11, 13, and 17-20, Barrie teaches remote game administration (Col 4:42-4:60) including a server system (central computer) for game state operation and tracking.

Barrie utilizes remote hardware game management including all related processing functionality this is understood to encompass the storage and execution of software as well as performing as a server of the game to the remotely located player.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3-5, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrie (US 5833,537) in view of Baerlocher (US 6,375,187)

Regarding claims 3-5, 16 Barrie is silent regarding allowing a player to choose to accept or reject a bonus offer based on the running count however Baerlocher teaches the presentation of award offers to players and allowing the player to either accept the reward offers or reject the offers as they desire. It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the presentation of reward offers to the player and allowing them to accept or reject the offers in order to

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allow the players to elect to receive smaller incentive prizes in place of risking any associated reward with the counting grid due to symbol expiration.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barrie (US 5833,537).

Barrie teaches providing a payout based on the results of a first game and the counting of a counting grid as taught above however Barrie is silent regarding only providing a payout only when the base payout is zero. It would have been obvious to one of ordinary skill in the art at the time of invention to remove the traditional slot payout from the base game of Barrie (Figure 7) while still utilizing the reels for persistent symbol determination in a bingo style game in order to increase the payout of the persistent symbol game aspect.

Conclusion

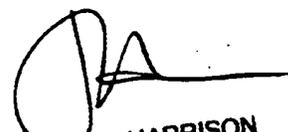
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on (571)272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3714

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).

RM



JESSICA HARRISON
PRIMARY EXAMINER

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/05/06

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/778582 Patent No 7012615

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. 123

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____


SPE


Art Unit



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DINSMORE & SHOHL, LLP
FIFTH THIRD CENTER
ONE SOUTH MAIN STREET
SUITE 1300
DAYTON, OH 45402

Mail Date: 04/21/2010

Applicant : Stephan Sattler : DECISION ON REQUEST FOR
Patent Number : 7666357 : RECALCULATION of PATENT
Issue Date : 02/23/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/778,586 : OF WYETH
Filed : 02/13/2004 :
:

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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Henry T. Brendzel
P.O. Box 574
Springfield NJ 07081

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of :
Naguib et al. :
Application No.: 10/778589 : DECISION ON
Filing or 371(c) Date: 02/13/2004 : PETITION
Attorney Docket Number: Naguib 7-43 :

This is a decision in response to the Petition to Withdraw Holding of Abandonment, filed January 8, 2008, and supplemented on February 12, 2008. The petition is properly treated under 37 CFR 1.181.

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 June 1, 2007. The Notice set a three (3) month period for reply. No reply having been received, the application became abandoned on September 2, 2007. A Notice of Abandonment was mailed December 26, 2007.

Applicant files the instant petition and asserts that a timely reply to the Office action was filed August 23, 2007, as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant files a copy of his return-receipt postcards acknowledging receipt by this Office of, *inter alia*, and Amendment and Statutory Disclaimer on August 23, 2007.

A review of the return-receipt postcards reveal that Applicant is correct. The postcard acknowledges receipt by this Office of, *inter alia*, an Amendment and Statutory Disclaimer on August 23, 2007.

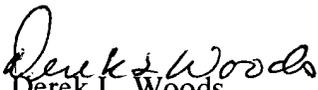
"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2611 for processing of the Reply, filed February 12, 2008, and for continued examination 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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SUJIT KOTWAL
TOWNSEND AND TOWNSEND AND CREW, LLP
379 LYTTON AVENUE
PALO ALTO, CA 94301

COPY MAILED

SEP 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Jonathan Kepecs	:	
Application No. 10/778,611	:	DECISION ON PETITION
Filed: February 12, 2004	:	TO WITHDRAW
Attorney Docket No. 018477-000810	:	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 31, 2005.

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

A review of the file record indicates that the power of attorney to Sujit Kotwal 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, which is the address indicated below.

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


Amelia Au
Petitions/Examiner
Office of Petitions

cc: AKA CHAN LLP
900 LAFAYETTE STREET
SUITE 710
SANTA CLARA, CA 95050



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/778,611	02/12/2004	Jonathan Kepecs	18477-000810

20350
 TOWNSEND AND TOWNSEND AND CREW, LLP
 TWO EMBARCADERO CENTER
 EIGHTH FLOOR
 SAN FRANCISCO, CA 94111-3834

CONFIRMATION NO. 3572

OC000000020195458

OC000000020195458

Date Mailed: 08/25/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/07/2005.

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

IRVIN DINGLE
 OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
10/778,611	02/12/2004	Jonathan Kepecs	18477-000810

51111
 AKA CHAN LLP
 900 LAFAYETTE STREET
 SUITE 710
 SANTA CLARA, CA 95050

CONFIRMATION NO. 3572
 OC000000020195489
 OC000000020195489

Date Mailed: 08/25/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/07/2005.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

IRVIN DINGLE
 OP (571) 272-3210

ATTORNEY/APPLICANT COPY



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

David S. Carus
Allen, Dyer, Doppelt, Milbrath, & Gilchrist, P.A.
1401 Citrus Center 255 South Orange Avenue
P.O. Box 3791
Orlando, FL 32802-3791

MAIL

MAR 25 2009
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of: McCarthy et al.)
Application No. 10/778,613)
Attorney Docket No. ID-505)
Filed: February 13, 2004)
For: COMMUNICATIONS SYSTEM)
PROVIDING LOAD BALANCING BASED)
UPON CONNECTIVITY DISTURPTIONS)
AND RELATED METHODS)

**DECISION ON PETITION FOR
WITHDRAWAL OF SPECIFICATION
OBJECTION UNDER 37 CFR §1.181**

This is a decision on the petition filed August 1, 2008 under 37 C.F.R. §1.181 to consider a specification objection made in final office action issued January 25, 2008.

The petition is **Granted**.

RELEVANT PROSECUTION HISTORY

January 25, 2008	The Examiner issued a Final Rejection with included a specification objection.
March 25, 2008	The applicant filed an After Final amendment which contained a request for reconsideration of the specification objection.
May 2, 2008	The Examiner issued an Advisory Action entering the after final amendment and responding to the request for reconsideration.
May 20, 2008	The applicant filed a Notice of Appeal.
August 1, 2008	The applicant filed an Appeal Brief and this Petition.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.75(d)(1) states:

(d)(1) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. (See § 1.58(a)).

DECISION

The specification of the application provides antecedent basis for the claim limitation of "computer readable medium" on page 4. Because the claim language is given antecedent basis, the objection to the specification under 37 C.F.R. § 1.75(d)(1) regarding the term "computer readable medium" is improper.

For the above reasons, the petition is **GRANTED**.

The specification objection in the final office action issued January 25, 2008 is hereby **WITHDRAWN**.

A copy of this decision is being forwarded to the Examiner to take appropriate action.

/Kim Huynh/

Kim Huynh
Work Group QAS
Technology Center 2400



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P.O. Box 1450
Alexandria, VA 22313-1450
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Daniel H. Golub
1701 Market Street
Philadelphia, PA 19103

MAILED

DEC 15 2004

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re application of	:	DECISION ON PETITION
Marc Andrew Blumberg et al	:	TO MAKE SPECIAL
Application No. 10/778,615	:	(ACCELERATED
Filed: February 11, 2004	:	EXAMINATION)
For: METHOD AND SYSTEM	:	
FOR MEASURING WEB	:	
SITE IMPACT	:	

This is in response to the petition filed on February 11, 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 filed February 11, 2004 fails to adequately meet requirement (B) above.

For the above stated reasons, 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.

SUMMARY: Petition to Make Special DISMISSED.

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.



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

kjd:12/8/04



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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APR 13 2005

DANIEL H. GOLUB
1701 MARKET STREET
PHILADELPHIA, PA 19103

In re application of
 Marc Andrew Blumberg et al.
Application No. 10/778,615
Filed: February 11, 2004
For: METHOD AND SYSTEM FOR MEASURING
 WEB SITE IMPACT

: **DECISION ON PETITION**
:
: **TO MAKE SPECIAL**
:
: **(ACCELERATED**
:
: **EXAMINATION)**

This is in response to the petition filed on March 08, 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).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

SUMMARY: Petition to Make Special GRANTED.



Steven Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/slb: 04/06/05



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Commissioner for Patents
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RICHARD R. MICHAUD
THE MICHAUD-DUFFY GROUP, LLP
306 INDUSTRIAL PARK ROAD
SUITE 206
MIDDLETOWN, CT 06457

COPY MAILED

MAR 14 2007

OFFICE OF PETITIONS

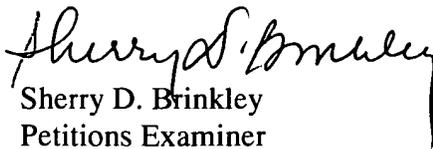
In re Patent No. 7,022,163 :
Issue Date: April 4, 2006 :
Application No. 10/778,624 : **ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. 6683-0005 :

This is a decision on the petition filed June 6, 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**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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)
6,949,156	2005-09-27	10/778,627	2004-02-13	923-6U3

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

- | Fee | Code |
|---|--------|
| <input checked="" type="radio"/> 3 ½ year | (1551) |
| <input type="radio"/> 7 ½ year | (1552) |
| <input type="radio"/> 11 ½ year | (1553) |

Small Entity

- | Fee | Code |
|---------------------------------|--------|
| <input type="radio"/> 3 ½ year | (2551) |
| <input type="radio"/> 7 ½ year | (2552) |
| <input type="radio"/> 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

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.

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	/William W. Schwarze/	Date (YYYY-MM-DD)	2009-11-16
Name	William W. Schwarze	Registration Number	25918

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6949156 :
Issue Date: September 27,2005 :
Application No. 10778627 :DECISION GRANTING PETITION
Filed: February 13,2004 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 923-6U3 (HERALOCK) :

This is a decision on the electronic petition, filed November 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 November 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.



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 24 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of
Tadashi TAKEUCHI, et al.
Application No. 10/778,628
Filed: February 12, 2004

DECISION ON PETITION
TO MAKE SPECIAL

For: **DATA DISTRIBUTION SERVER**

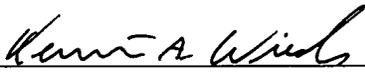
This is a decision on the petition filed November 22, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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



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

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APR 05 2007

In re Application of :
Patrizio Vinciarell :
Application No. 10/778,629 :
Filed: February 13, 2004 :
Attorney Docket No. 00614-120002 :

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition, filed April 4, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 19, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2836 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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



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SAN JOSE CA 95113

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NOTICE

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of
Marc J. Loinaz, et al.
Application No. 10/778,635
Filed: February 13, 2004
Attorney Docket No. AELU.P0008

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) 272-2991.


Terri Johnson
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 082304

Brent P. Johnson
SHERIDAN ROSS P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141

AUG 30 2004

In re Application of:	:	
James Lawrence Brickley	:	DECISION ON PETITION
Serial No.: 10/778,637	:	TO MAKE SPECIAL
Filed: February 13, 2004	:	
Attorney Docket No.: 7059-5	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 12, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

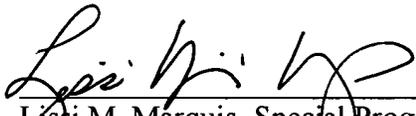
A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from James Lawrence Brickley stating that the he is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Lissi Marquis at (571) 272-1596.



 Lissi M. Marquis, Special Programs Examiner
 Technology Center 2800
 Semiconductors, Electrical and Optical
 Systems and Components



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: Paul J. Pagano	: DECISION ON REQUEST FOR
Patent Number	: 7641664	: RECALCULATION OF PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/778,650	: 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 **802** 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.



KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079

MAILED

FEB 25 2010

OFFICE OF PETITIONS

In re Application of :
Mital, Stroia, Huang, and Yu :
Application No. 10/778,651 : **DECISION ON PETITION**
Filed: February 12, 2004 :
Attorney Docket No. FLTW-22 :
Title: PRECAT-NOX ADSORBER :
EXHAUST AFTERTREATMENT SYSTEM :
FOR INTERNAL COMBUSTION ENGINES :

This is a decision on the petition under 37 CFR 1.47(a), filed October 7, 2009, which is being treated as a petition under 37 CFR 1.183 seeking waiver of the requirement of 37 CFR 1.64 and 1.67 that the named inventor re-execute the declaration.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and do not apply to the re-execution of another oath or declaration by a signing inventor. See MPEP 603. Rather, the remedy is a petition under 37 CFR 1.183 (and fee), requesting waiver of the requirement of 37 CFR 1.64 and 1.67 that the inventor re-execute the oath or declaration. The petition under 37 CFR 1.183 requesting waiver of the re-execution of the oath or declaration will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration, or whether the non-signing inventor could not be reached.

In this instance, joint inventor, Shyan C. Hung, signed the originally filed declaration in the present application. However, in the Ex parte Quayle action of September 1, 2009, the examiner indicated that appropriate correction was required because the declaration did not indicate the full name (family name and at least one given name together with any initial) of inventor "S.C. Huang."

On October 7, 2009, applicants filed the present petition, a copy of the application papers, and an unexecuted declaration identifying all the inventors by their full names, including Shyan C. Hung, residences, mailing addresses, and countries of citizenship. Applicants assert that inventor Huang

could not be located to sign the declaration after diligent efforts and provided a documentary showing of their efforts to find inventor Huang.

The Office notes that 37 CFR 1.63(a) (2) requires that each inventor be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial in the oath or declaration. An oath or declaration that does not adequately state the full given name of each inventor will be considered defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying the application by application number and filing date is required. See MPEP 605.04(b), 602.01 and 602.02. The supplemental oath or declaration must (1) identify the entire inventive entity, and (2) be signed by all the inventors when the correction relates to all the inventors or applicants (37 CFR 1.42, 1.43, or 1.47), or by only those inventor(s) or applicants (37 CFR 1.42, 1.43, or 1.47) to whom the corrections relates. See 37 CFR 1.67(a). However, when an inventor who executed the original declaration refuses or cannot be located to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventors must sign the supplemental declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

As inventor Huang cannot be located to execute the required supplemental declaration, all available joint inventors must sign the supplemental declaration on his behalf. Unfortunately, the supplemental declaration submitted with the petition is unacceptable because it is not executed by all available joint inventors on behalf of the non-signing inventor. See MPEP 409.03(a). Accordingly, the requirement that inventor Huang sign the supplemental declaration cannot be suspended or waived in accordance with 37 CFR 1.183 at this time.

In view of the above, 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. **Failure to timely respond will result in abandonment of the application.** The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183."

The current fee for filing a petition under 37 CFR 1.183 is \$400.00. The Office will charge the difference of \$200.00 to the Deposit Account, as authorized.

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



Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) ~~308-9390~~ ext. 110 or (703) 308-8309

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

CBN/ee



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OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Patent No. 7,052,928 :
Issue Date: May 30, 2006 :
Application No. 10/778,655 : ON PETITION
Filed: February 12, 2004 :
Attorney Docket No. 60859 (70840) :

This is a decision on the petition filed November 15, 2006, which is being treated as a petition under 37 CFR 3.81(b)¹ to add assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

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

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


Irvin Dingle
Petitions Examiner
Office of Petitions

¹ See Official Gazette of June 22, 2004



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LEON D. ROSEN
FREILICH, HORNBAKER & ROSEN
SUITE 1220
10960 WILSHIRE BLVD.
LOS ANGELES CA 90024

COPY MAILED

NOV 06 2007

OFFICE OF PETITIONS

In re Application of :
Thomas W. Fleming : DECISION ON APPLICATION
Application No. 10/778,658 : FOR
Filed: 13 February, 2004 : PATENT TERM ADJUSTMENT
For: CONFORMING EARPLUG :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER MPEP 2734," filed on 10 April, 2007.. Patentees request that the patent term adjustment indicated in the patent be corrected from twenty (20) days to five hundred twenty-four (524) days.

The petition is **DISMISSED**.

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

On 21 October, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) (application filed on or after May 29, 2000) in the above-identified application. The Notice stated that the patent term extension to date is 20 days. On 28 October, 2005, the issue fee was paid. On 8 November, 2005, a Notice of Withdrawal From Issue Under 37 CFR 1.313 was mailed, stating that the application is withdrawn from issue. On 30 March, 2007, a Notice of Allowance was mailed, along with a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) (application filed on or after May 29, 2000) stating that the Patent Term Adjustment to date is 20 days.

On 10 April, 2007, the issue fee was paid, along with the instant petition under 37 CFR 1.705(b).

Applicants assert that they are entitled to an additional 504 days of Patent Term Adjustment from the date the first Notice of Allowance, mailed on 21 October, 2005, to the date of the mailing of the second Notice of Allowance on 30 March, 2007.

Applicants' argument has been considered, but is not persuasive.

35 U.S.C. 154(b)(1)(A)(i) provides that:

--Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to--

(i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after--

(I) the date on which an application was filed under section 111(a) of this title;

37 CFR § 1.702 provides that:

(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;

37 CFR § 1.703 states, in pertinent part:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(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;

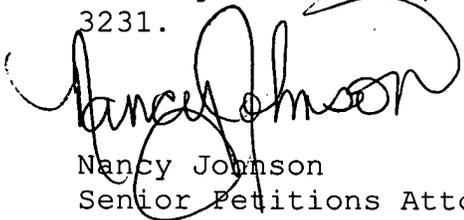
The Office satisfied the requirement of 37 CFR § 1.702(a)(1) with the mailing of a Notice of Allowance on 21 October, 2005. There is no provision in the law or rules for additional patent term adjustment when an application is withdrawn from issue, and a new Notice of Allowance is subsequently mailed.

As such, the withdrawal of the application from issue after the mailing of the Notice of Allowance on 21 October, 2005, and the mailing of a subsequent Notice of Allowance on 30 March, 2007, does not entitle applicant to additional patent term adjustment.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is twenty (20) days. The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is referred to the Office of Patent Publications for issuance of the patent.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/778,660	02/13/2004	3753	1566	MED-0007	13	57	3

CONFIRMATION NO. 6659

UPDATED FILING RECEIPT



OC000000012993824

33941
 MONTE & MCGRAW, PC
 4092 SKIPPACK PIKE
 P.O. BOX 650
 SKIPPACK, PA 19474

Date Mailed: 06/21/2004

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

Applicant(s)

Bernard Canaud, Montpellier, FRANCE;
 Kenneth J. Chesnin, Philadelphia, PA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/447,080 02/13/2003
 and claims benefit of 60/494,894 08/13/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/11/2004

Projected Publication Date: 09/30/2004

Non-Publication Request: No

Early Publication Request: No

Title

Catheter port assembly for extracorporeal treatment

Preliminary Class

604

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

GRANTED

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

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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).



Track & Confirm

Shipment Details

You entered ER49 3074 392U S

Your item was delivered at 9:26 am on February 17, 2004 in ALEXANDRIA, VA 22313 to PATENT OFFICE. The item was signed for by M BOSTON.

Here is what happened earlier:

- ARRIVAL AT PICK-UP-POINT, February 14, 2004, 9:19 am, ALEXANDRIA, VA 22313
- ARRIVAL AT UNIT, February 14, 2004, 9:10 am, DULLES, VA 20102
- ENROUTE, February 13, 2004, 6:03 pm, SOUTHEASTERN, PA 19399
- ACCEPTANCE, February 13, 2004, 4:40 pm, CREAMERY, PA 19430

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Barbara Soltz
81 Pine Brook Road
Spring Valley, NY 10977

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OCT 29 2008

OFFICE OF PETITIONS

In re Application of :
Barbara Ann Soltz et al. :
Application No. 10/778,663 : ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. 100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 12, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application was June 13, 2008. A Notice of Abandonment was mailed on September 19, 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 3.

As to item (3) the statement of unintentional delay is presently not acceptable since it was not signed by all of the inventors. See 37 CFR 1.33(b) which states:

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

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under §3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

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

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

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

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



Carl Friedman
Petitions Examiner
Office of Petitions



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Barbara Soltz
81 Pine Brook Road
Spring Valley, NY 10977

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JAN 07 2009

OFFICE OF PETITIONS

In re Application of :
Barbara Ann Soltz et al. :
Application No. 10/778,663 : ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. 100 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 10, 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 March 12, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A two month extension of time was obtained. Accordingly, the date of abandonment of this application is June 13, 2008. A Notice of Abandonment was mailed on September 19, 2008.

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

The petition decision mailed October 29, 2008 dismissed the petition filed September 25, 2008 for failure to provide signatures for all the inventors. The renewed petition includes signatures of Barbara A. Soltz, Robert Soltz and Michael A. Soltz which are all of the inventors in this application.

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

This application is being referred to Technology Center AU 3735 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

A handwritten signature in black ink, appearing to read 'Carl Friedman', with a long horizontal stroke extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions



HUMPHREYS ENGINEER CENTER SUPPORT ACTIVITY
ATTN: CEHEC-OC
7701 TELEGRAPH ROAD
ALEXANDRIA VA 22315-3860

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OCT 08 2008

OFFICE OF PETITIONS

In re Application of :
Norbert E. Yankielun, et al. :
Application No. 10/778,706 : **DECISION GRANTING PETITION**
Filed: February 11, 2004 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. COE-569 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 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 January 14, 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
Petitions Examiner
Office of Petitions

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



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PHILADELPHIA, PA 19103

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MAY 03 2006

OFFICE OF PETITIONS

In re Application of :
J. Bradley Phipps et al : DECISION ON PETITION
Application No. 10/778,748 : UNDER 37 CFR 1.181
Filed: February 12, 2004 :
Attorney Docket No. 0379/ARC2426CIP2 :

This is a decision on the communication filed March 31, 2006 which is being treated as a petition under 37 CFR 1.181, to accept a delayed claim for priority made on filing and for a corrected filing receipt.

The petition is **DISMISSED**.

A review of the file record indicates that an amendment was filed with the instant application on February 12, 2004 and resubmitted on March 31, 2006, requesting correction of the recorded continuity data. A request for a corrected filing receipt was also submitted on February 27, 2006.

Petitioner should be aware that the continuity claimed cannot be added without the applicant supplying the relationship of Application No. 08/483,069 in an Application Data Sheet or amendment to the first page of the specification. A response to the request for corrected filing receipt mailed March 17, 2006, did make reference to the above.

37 CFR 1.78(a)(2)(I) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(I) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing

date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed February 12, 2004 and resubmitted on March 31, 2006, fails to state the relationship of Application No. 08/483,069, filed June 7, 1995, to the instant application.

Accordingly, a petition under 37 CFR § 1.78(a)(3) and a substitute amendment¹ stating the relationship of the prior-filed application to the instant application is required.

A petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

Additionally, if the issue fee is paid prior to the filing of the petition under 37 CFR 1.78(a)(3), then, a petition to withdraw from issue under 37 CFR 1.313(c) would be required. Also, petitioner is reminded that the issue fee must be paid by its due date of May 9, 2006.

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

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

By hand: Customer Window located at:

 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

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

¹ Note 37 CFR 1.121

Application No. 10/778,748

-2-

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

A handwritten signature in black ink that reads "Karen Creasy". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

Patent No. : 7099492 ^{4/13/07}~~150~~
Inventor(s) : Geoffrey B. Rhoads
Issued : 8/29/2006
Title : GEO-REFERENCING OF AERIAL IMAGERY USING EMBEDDED
IMAGE IDENTIFIERS
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col. 12 line 8, claim 20 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied. However the remaining of the corrections will be corrected.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

STEVEN W. STEWART, DIGIMARC CORPORATION
9405 SW GEMINI DR.
BEAVERTON, OR 97008

HR/CBN

SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/24/07

Paper No.: _____

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/574702 Patent No.: 7099492

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

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

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

**HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____**

Thank You For Your Assistance

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments: _____

Make collections to all three columns/ col. 7,
col. 10, and col 12) as indicated by applicant

Allen Chamber

SPE

2628

Art Unit

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**Page 1 of 1

PATENT NO. : 7,099,492 B2
APPLICATION NO.: 10/778,762
ISSUE DATE : August 29, 2006
INVENTOR(S) : Geoffrey B. Rhoads

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

Column 7, line 15, change "is a less" to --in a less--.

Column 10, line 57, Claim 11, change "method of claim wherein" to --method of claim 8 wherein--.

Column 12, line 8, Claim 20, change "The method of claim 12" to --The method of claim 8--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Steven W. Stewart, Digimarc Corporation
9405 SW Gemini Dr.
Beaverton, OR 97008

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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



LAWRENCE ROSENTHAL
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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JUN 20 2006

OFFICE OF PETITIONS

In re Application of	:	
Hisashi Miyazawa et al	:	
Application No. 10/778,766	:	ON PETITION
Filed: February 13, 2004	:	
Attorney Docket No. 448563/0241	:	

This is a decision on the petition, filed June 16, 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 12, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2861 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
 Karen Creasy
 Petitions Examiner
 Office of Petitions

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



UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date : June 20, 2006
TO : Director, Office of Patent Publication
FROM : Office of the Deputy Commissioner
for Patent Examination Policy
SUBJECT : Withdrawal from Issue of

Applicant(s) : Hisashi Miyazawa et al
Application No. : 10/778,766
Filed : February 13, 2004

The above-identified application has been assigned Patent No. 7,070,259 and an issue date of July 4, 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 July 4, 2006:

"All reference to Patent No. 7,070,259 to Hisashi Miyazawa et al of Japan for INK-JET RECORDING DEVICE AND INK CARTRIDGE appearing in the Official Gazette of July 4, 2006 should be deleted since no patent was granted."

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

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



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Commissioner for Patents
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LAWRENCE ROSENTHAL
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

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OCT 31 2007

OFFICE OF PETITIONS

In re Application of :
Hisashi Miyazawa et al :
Application No. 10/778,766 : DECISION GRANTING PETITION
Filed: February 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 448563/0241 :

This is a decision on the petition, filed October 30, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 22, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This matter is being referred to Technology Center AU 2861 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\Oct11\778766.wpd

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



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Tarek N. Fahmi
Schwegman, Lundberg, Wossner & Kluth
P.O. Box 2938
Minneapolis, MN 55402

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrew A. Wajs	:	
Application No. 10/778,801	:	DECISION ON PETITION
Filed: February 12, 2004	:	TO WITHDRAW
Attorney Docket No. 5683P039	:	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 12, 2004.

The request is **NOT APPROVED**.

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

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

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

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



David Bucci
Petitions Examiner
Office of Petitions

cc: Andre L. Marais
Schwegman, Lundberg, Woessner & Kluth
1600 TCF Tower
121 South Eighth Street
Minneapolis, MN 55402



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ROBERT PLATT BELL
P.O. BOX 13165
JEKYLL ISLAND, GA 31527

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MAY 18 2007

In re Application of
Eric M. DIXON
Application No. 10/778,827
Filed: February 17, 2004
Attorney Docket No. DIXON-0001

**OFFICE OF PETITIONS
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 13, 2007 and renewed on May 4, 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 Paul P. Bell 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.

All future communications from the Office will be directed to the inventor at the address indicated below until otherwise properly notified by the applicant.

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

There is an outstanding Office action mailed May 2, 2007 that requires a reply by the applicant.


April Wise
Petitions Examiner
Office of Petitions

cc: ERIC M. DIXON
1203 BELLE VIEW BLVD. A-1
ALEXANDRIA, VA 22307



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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of :
Braff, et al. :
Application No. 10/778,831 : DECISION ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. 101328-0186 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 5, 2007.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the non-final Office action, mailed December 21, 2006. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on July 26, 2007, stating that no reply had been received.

A review of the application file reveals the presence of an Amendment, filed on June 28, 2007. The Amendment was made timely with a three month extension of time, and with a Certificate of Mailing dated June 21, 2007. Accordingly, it is concluded that the Notice of Abandonment was mailed in error.

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

The matter is being forwarded to Group Art Unit 1647 for consideration of the Amendment filed June 28, 2007.

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

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



INTERNATIONAL BUSINESS MACHINES CORPORATION
RICHARD LAU
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

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JUL 07 2010

OFFICE OF PETITIONS

In re Application of :
Myung Mun BAE, et al. :
Application No. 10/778,838 : **DECISION ON PETITION**
Filed: February 13, 2004 : **UNDER 37 CFR 1.181**
Attorney Docket No. **DE920020046US1** :

This is a decision on the petition, filed July 24, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed October 10, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 26, 2009.

Petitioner asserts that the Office action dated October 10, 2008 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 non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

This application is being referred to the Technology Center technical support staff of Art Unit 2441 for re-mailing the Office action of October 10, 2008. The period for reply will run from the mailing date of the Office action.



Thurman K. Page
Petitions Examiner
Office of Petitions



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Paul, Hastings, Janofsky & Walker LLP
P.O. Box 919092
San Diego, CA 92191-9092

In re Application of:
Keith C. DAVIS, et al.
Application No. 10/778,844
Filed: February 12, 2004
For: METHOD AND SYSTEM FOR CREATING
AND PERFORMING MUSIC
ELECTRONICALLY VIA A
COMMUNICATIONS NETWORK

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Technology Center 2100

**DECISION ON REQUEST TO
WITHDRAW AS ATTORNEY
OR AGENT**

This is a decision on the Request to Withdraw from Representation filed June 15, 2004.

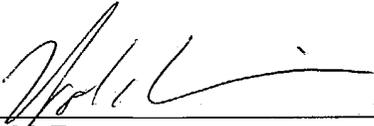
A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

Because no request was made to change correspondence address, all future communications from the United States Patent and Trademark Office (Office, hereafter) *will continue to be directed to the above-listed address* until otherwise notified. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Serial No.: 10/778,844
Decision on Petition

- 2 -



Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750



KEELY SCHNEITER, P.C.
74 WEST 100 NORTH
P. O. BOX 675
LOGAN, UT 84321

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OFFICE OF PETITIONS

In re Application of :
Craig Donaldson et al :
Application No. 10/778,858 :
Filed: February 13, 2004 :
Attorney Docket No. 3016.2.2 :

NOTICE

This is a notice regarding your request, filed January 26, 2007, for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. See 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions



ILEX ONCOLOGY, INC.
ATTN: FRANCES WINKLER
4545 HORIZON HILL BLVD.
SAN ANTONIO, TX 78229

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OFFICE OF PETITIONS

In re Application of :
Kufe and Ohno :
Application No. 10/778,859 : DECISION REFUSING STATUS
Filed: February 13, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 1000.05.011.CIP :
For: MUC1 EXTRACELLULAR DOMAIN AND CANCER
TREATMENT COMPOSITIONS AND METHODS DERIVED
THEREFROM

This is a decision on the petition under 37 CFR 1.47(b) filed October 13, 2004, which is being treated as a petition under 37 CFR 1.47(a).

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on February 13, 2004, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on April 13, 2004, requiring an executed oath or declaration, a surcharge for the late filing of the oath or declaration, and a sequence listing. The instant petition was filed on October 13, 2004, with a request for an extension of time within the fourth month.

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

- (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee,
- (4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (2) as set forth above.

As to item (2), a review of the declaration filed October 13, 2004, revealed that the mailing address for inventor Ohno was not provided. It is noted that 37 CFR 1.62(c)(1) provides that:

- (c) unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must identify:
- (1) The mailing address, an the residence if an inventor lives at a location which is different from where the inventor customarily received mail, of each inventor . . .

No Application Data Sheet was found with the application papers, therefore; the declaration is required to provide a mailing address for all the inventors. The declaration is defective because no address was provided for inventor Ohno.

Any renewed petition must be accompanied by a declaration identifying the mailing address of inventor Ohno.

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

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

By FAX: (571) 272-8300
 Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ILEX ONCOLOGY, INC.
ATTN: FRANCES WINKLER
4545 HORIZON HILL BLVD.
SAN ANTONIO, TX 78229

In re Application of :
Kufe and Ohno :
Application No.: 10/778,859 : DECISION ACCORDING
Filed: February 13, 2004 : RULE 47(a) STATUS
Attorney Docket No: 1000.05.011CIP :
For: **MUC1 EXTRACELLULAR DOMAIN AND CANCER
TREATMENT COMPOSITIONS AND METHODS
DERIVED THEREFROM**

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 15, 2006.

The renewed petition is **GRANTED**.

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

The above-identified application was filed on February 13, 2004, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on April 13, 2004, requiring an executed oath or declaration, a surcharge for the late filing of the oath or declaration, and a sequence listing. A petition under 37 CFR 1.47(a) was filed on October 13, 2004, and dismissed by a decision mailed December 19, 2005. The instant renewed petition was filed on March 15, 2006, with a request for an extension of time within the first month.

Petitioner has shown that inventor Ohno is cannot be located to join the prosecution of the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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Tsuneya Ohno
Tokyo Jikei
University School of Medicine
Department of Microbiology
3-25-8
Nishi-Shimbashi, JAPAN

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MAR 28 2006

OFFICE OF PETITIONS

In re Application of :
Kufe and Ohno :
Application No.: 10/778,859 : **DECISION ACCORDING**
Filed: February 13, 2004 : **RULE 47(a) STATUS**
Attorney Docket No: 1000.05.011CIP :
For: MUC1 EXTRACELLULAR DOMAIN AND CANCER
TREATMENT COMPOSITIONS AND METHODS
DERIVED THEREFROM

Dear Inventor Ohno:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

ILEX ONCOLOGY, INC.
ATTN: FRANCES WINKLER
4545 HORIZON HILL BLVD.
SAN ANTONIO, TX 78229



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COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :
JIANG :
Application No. 10/778,861 :
Filed: February 13, 2004 :
Attorney Docket No. RMWR.P011(028327-00070) :

**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 24, 2006.

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

A review of the file record indicates that the power of attorney to Barbara B. Courtney has been revoked by the assignee of the patent application on June 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.


Denise Pothier
Petitions Examiner
Office of Petitions

cc: **ARENT FOX PLLC**
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036



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MAR 29 2010

OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

In re Patent No. 7,009,533 :
Issue Date: March 7, 2006 :
Application No. 10/778,880 : NOTICE
Filed: February 13, 2004 :
Attorney Docket No. SMPL 1002-1 :

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

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

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

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENIO PARK, CA 94025

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JAN 09 2006

OFFICE OF PETITIONS

In re Application of: :
Robert C. Fox :
Application No. 10/778,882 : DECISION ON
Filed: February 13, 2004 : PETITION
For: INERTIA VALVE SHOCK ABSORBER :

This is a decision in response to the Petition under 37 CFR 1.137(b), filed August 16, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

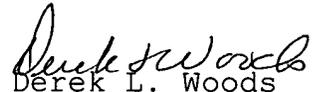
The above-identified application became abandoned for failure to timely and properly reply to the Office Communication mailed December 30, 2004. The Office Communication required Application to respond make a restriction/election. The Restriction/Election requirement set a one (1) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned January 31, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A Response to the Restriction/Election requirement was filed March 30, 2005. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 3683 for processing of the Response to the Restriction/Election requirement.

A refund of the extension-of-time fee paid August 3, 2005 has been credited to deposit account 07-1445 as authorized in the Fee Transmittal filed August 3, 2005.

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


Derek L. Woods
Petitions Attorney
Office of Petitions



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Paper No. None

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Don Buckley et al.	:	
Application No. 10/778,892	:	DECISION ON PETITION
Filed: February 13, 2004	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number:	:	
1318-PA01	:	
Title: THIN METAL FILM	:	
UNINTERRUPTABLE POWER SUPPLY	:	
SYSTEM	:	

This is a decision on the petition filed February 7, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 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)

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.

were requested. Accordingly, the above-identified application became abandoned on July 13, 2004. A notice of abandonment was mailed on February 8, 2005.

With the present petition, Petitioner has submitted an assignment, a declaration, the filing fee and the surcharge associated with the late submission of the same, the petition fee, the search fee, the examination fee, and the proper statement of unintentional delay.

Petitioner has met requirements (2) and (3) of 37 C.F.R. §1.137(b). No terminal disclaimer is required. Regarding the first requirement, the declaration which has been submitted with the present petition cannot be accepted - the addresses of the inventors are not fully legible, and the zip code for the first-named inventor has been omitted.

As such, the petition must be **DISMISSED**.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

The change of correspondence address and power of attorney have been entered and made of record.

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 Shanowski
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 Dulany Street, Alexandria, VA, 22314.

4 (571) 273-8300- please note this is a central facsimile number.



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Paper No. None

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Don Buckley et al. :
Application No. 10/778,892 : DECISION ON RENEWED
Filed: February 13, 2004 : PETITION UNDER 37 C.F.R.
Attorney Docket Number: : \$1.137(B)
1318-PA01 :
Title: THIN METAL FILM :
UNINTERRUPTABLE POWER SUPPLY :
SYSTEM :

This is a decision on the renewed petition filed July 12, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 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)

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.

were requested. Accordingly, the above-identified application became abandoned on July 13, 2004. A notice of abandonment was mailed on February 8, 2005.

The original petition was submitted on February 7, 2006, and was dismissed via the mailing of a decision on July 5, 2006, for failure to provide an acceptable declaration.

With this renewed petition, Petitioner has submitted an Application Data Sheet (ADS) which serves to overcome the deficiencies with the declaration.

As such, the renewed petition is **GRANTED**.

The Office of Initial Patent Examination will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.


Paul Shanowski
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 Petitioner's further action(s).



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AUG 01 2006
OFFICE OF PETITIONS

In re Application of :
Don Buckley et al. :
Application No. 10/778,893 : DECISION ON PETITION
Filed: February 13, 2004 : UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: :
1318-PA05 :
Title: MULTI-CHEMISTRY :
CHARGERS :

This is a decision on the petition filed February 7, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 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

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.

became abandoned on July 13, 2004. A notice of abandonment was mailed on February 8, 2005.

With the present petition, Petitioner has submitted an assignment, a declaration, and the proper statement of unintentional delay. The filing fee and the surcharge associated with the late submission of the same, the petition fee, the search fee, and the examination fee have been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (2) and (3) of 37 C.F.R. §1.137(b). No terminal disclaimer is required. Regarding the first requirement, the declaration which has been submitted with the present petition cannot be accepted - the addresses of the inventors are not fully legible, and the zip code for the first-named inventor has been omitted.

As such, the petition must be **DISMISSED**.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

The change of correspondence address and power of attorney have been entered and made of record.

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 Shanowski
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 Dulany Street, Alexandria, VA, 22314.

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DEC 18 2006

OFFICE OF PETITIONS

In re Application of :
Don Buckley et al. :
Application No. 10/778,893 : DECISION ON RENEWED
Filed: February 13, 2004 : PETITION UNDER 37 C.F.R.
Attorney Docket Number: : \$1.137(B)
1318-PA05 :
Title: MULTI-CHEMISTRY :
CHARGERS :

This is a decision on the renewed petition filed August 15, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were

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.

requested. Accordingly, the above-identified application became abandoned on July 13, 2004. A notice of abandonment was mailed on February 8, 2005.

The original petition was received on February 7, 2006, and was dismissed via the mailing of a decision on August 1, 2006 for failure to submit an acceptable declaration.

With this renewed petition, Petitioner has submitted an Application Data Sheet (ADS) that overcomes the previous deficiency.

As such, the renewed petition is **GRANTED**.

The Office of Initial Patent Examination (OIPE) will be notified of this decision so that the application may receive further processing.

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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JUL 05 2006

OFFICE OF PETITIONS

In re Application of :
Don Buckley et al. :
Application No. 10/778,894 : DECISION ON PETITION
Filed: February 13, 2004 : UNDER 37 C.F.R. §1.137(B)
Attorney Docket Number: :
1318-PA04 :
Title: SAFETY CIRCUIT :
TECHNIQUE FOR HIGH CURRENT :
SHUT-DOWN :

This is a decision on the petition filed February 7, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 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)

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.

were requested. Accordingly, the above-identified application became abandoned on July 13, 2004. A notice of abandonment was mailed on February 8, 2005.

With the present petition, Petitioner has submitted an assignment, a declaration, the filing fee and the surcharge associated with the late submission of the same, the petition fee, the search fee, the examination fee, and the proper statement of unintentional delay.

Petitioner has met requirements (2) and (3) of 37 C.F.R. §1.137(b). No terminal disclaimer is required. Regarding the first requirement, the declaration which has been submitted with the present petition cannot be accepted - the addresses of the inventors are not fully legible, and the zip code for the first-named inventor has been omitted.

As such, the petition must be **DISMISSED**.

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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

The change of correspondence address and power of attorney have been entered and made of record.

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 Shanowski
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.

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4 (571) 273-8300- please note this is a central facsimile number.



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OFFICE OF PETITIONS

In re Application of	:	
Don Buckley et al.	:	
Application No. 10/778,894	:	DECISION ON RENEWED
Filed: February 13, 2004	:	PETITION UNDER 37 C.F.R.
Attorney Docket Number:	:	\$1.137(B)
1318-PA04	:	
Title: SAFETY CIRCUIT	:	
TECHNIQUE FOR HIGH CURRENT	:	
SHUT-DOWN	:	

This is a decision on the renewed petition filed July 12, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 2004, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were

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.

requested. Accordingly, the above-identified application became abandoned on July 13, 2004. A notice of abandonment was mailed on February 8, 2005.

The original petition was submitted on February 7, 2006, and was dismissed via the mailing of a decision on July 5, 2006 due to deficiencies with the declaration².

With this renewed petition, an Application Data Sheet (ADS) has been submitted, which obviates these deficiencies.

As such, this renewed petition is **GRANTED**.

The Office of Initial Patent Examination will be made aware of this decision, so that the present application can receive further processing.

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

² The decision incorrectly indicated that the declaration failed to contain the zip code for the first named inventor. The Office regrets this error.



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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

DEC 05 2005

In re Application of: :
JONATHAN KEPECS et al. :
Serial No.: 10/778,918 : DECISION ON REQUEST TO WITHDRAW
Filed: February 12, 2004 : FROM RECORD
Attorney Docket No.: 018477-001200US :

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 31, 2004.

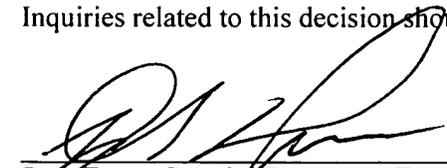
A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval 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 Sujit B. Kotwal, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Aka Chan, at the below address, 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

cc: AKA CHAN LLP
900 LAFAYETE STREET, SUITE 710
SANTA CLARA, CA 95050



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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202-5141

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NOV 26 2004

OFFICE OF PETITIONS

In re Application of :
Richard A. Schmidt :
Application No. 10/778,924 :
Filed: February 13, 2004 :
Attorney Docket No. 2848-28-PUS-1-2: DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to petition under 37 CFR 1.47(b), filed November 12, 2004.

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 13, 2004, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on May 12, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on November 12, 2004, made timely by obtaining a four month extension of time. Accompanying the petition were all the necessary fees in response to the Notice, as well as a 37 CFR 1.63 declaration identifying inventor Richard A. Schmidt, and executed by David Allen.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

Applicant has not submitted a proper 37 CFR 1.63 declaration. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.¹

Here it is not apparent if the declaration identifies the residence, post office address and citizenship of the nonsigning inventor, as required, or David Allen. In addition, the declaration fails to state the title or position of David Allen.

The petition fee of \$130 has been charged to Deposit Account No. 19-1970, as authorized.

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

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

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

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



Cliff Congo
Petitions Attorney
Office of Petitions

¹ See MPEP 409.03(b).



SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202-5141

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Richard A. Schmidt :
Application No. 10/778,924 :
Filed: February 13, 2004 :
Attorney Docket No. 2848-28-PUS-1-2: DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)", filed January 3, 2005.

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

The above-identified application was filed on February 13, 2004, without an executed oath or declaration or the statutory basic filing fee. Accordingly, on May 12, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, and the statutory basic filing fee. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on November 12, 2004, made timely by obtaining a four month extension of time. Accompanying the petition were all the necessary fees in response to the Notice, as well as a 37 CFR 1.63 declaration identifying inventor Richard A. Schmidt, and executed by David Allen. However, the petition was dismissed in a decision mailed on November 26, 2004, because petitioner did not submit a declaration in compliance with 37 CFR 1.63.

The instant petition has been reviewed and found to be in compliance with 37 CFR 1.47(b). The declaration filed January 3, 2005, has been determined to be in compliance with 37 CFR 1.63.

This application is hereby accorded Rule 1.47(b) status.

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

The application file is being forwarded to Group Art Unit 1651 for examination in due course.

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



Cliff Congo
Petitions Attorney
Office of Petitions



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RICHARD A SCHMIDT
12136 W 75TH LANE
ARVADA CO 80005

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JAN 18 2005

OFFICE OF PETITIONS

In re Application of
Richard A. Schmidt
Application No. 10/778,924
Filed: February 13, 2004
Title: Use of Neurotoxin Therapy for
Treatment of Urologic and Related
Disorders Related to Neurogenic
Bladder Disfunction

LETTER

Dear Mr. Schmidt:

You are named as the sole 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 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 (703) 305-0272. 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

Angela Dallas Sebor
Sheridan Ross P.C.
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
phone: 303-863-9700



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UNITED STATES DEPARTMENT OF COMMERCE
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BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/26/2010

Applicant	: Rod Walsh	: DECISION ON REQUEST FOR
Patent Number	: 7599294	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/778,926	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1379** 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.



ALFRED J MANGELS
4729 CORNELL ROAD
CINCINNATI OH 45241-2433

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APR 28 2006

OFFICE OF PETITIONS

In re Application of :
Michael Reuschel :
Application No. 10/778,931 : **DECISION ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. GS 0613 A US :

This is a decision on the petition under 37 CFR 1.181, filed on March 10, 2006, to withdraw the holding of abandonment.

On April 26, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the application became abandoned on July 27, 2005. On November 28, 2005, the Office mailed a Notice of Abandonment.

Petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, acknowledging receipt of a Transmittal Form (1 page), an Amendment (10 pages) with Attachment A (14 pages) and Attachment B (14 pages), and a Claim for Priority (1 page) with Certified copy of German application in the USPTO on July 27, 2006. Copies of these documents are included with this petition. The copy of the original Transmittal Form contained a certificate of mailing dated July 25, 2005.

The Office has not located the original correspondence. Section 503 of the MPEP states, “[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.” Accordingly, it is concluded that the response was filed timely in the USPTO on July 27, 2005 (certificate of mailing dated July 25, 2005), but was not matched with the application.

For the reasons stated above, the petition is **granted**. The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The application will be returned to its pending status.

This matter is being referred to Technology Center Art Unit 3681.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of: Emre Baris AKSU, et al.
Application No. 10/778,941
Filed: Feb 13, 2004
For: METHOD FOR SIGNALING CLIENT
RATE CAPACITY IN MULTIMEDIA
STREAMING

**DECISION SUA SPONTE
WITHDRAWING HOLDING
OF ABANDONMENT**

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a reply to the Board of Patent Appeals and Interferences Decision mailed Dec 11, 2008. The Notice of Abandonment was mailed on Feb 11, 2008.

37 CFR 1.198. states:

When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner **except under the provisions of § 1.114 or § 41.50** of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

MPEP 1214.07 states:

... if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application **will be reopened** and the **amendment will be entered**. See MPEP § 706.07(h), paragraph XI.

A review of the file record indicates that a Request for Continued Examination dated Feb 11, 2008 was timely filed based upon the receipt date of Board decision. Thus, the Notice of Abandonment mailed 23 May 2008 was premature.

The holding of Abandonment is hereby withdrawn.

The application is being forwarded to the appropriate personnel for treatment of the RCE filed Feb 11, 2008.

/Kim Huynh/

Kim Huynh, SPRE/QAS
Technology Center 2400
Network, Multiplexing, Cable and Security
571-272-4147



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.
10/778,941	02/13/2004	Emre Baris Aksu	944-001.103-6	4946
4955	7590	07/07/2010	EXAMINER	
WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP BRADFORD GREEN, BUILDING 5 755 MAIN STREET, P O BOX 224 MONROE, CT 06468			BOUTAH, ALINA A	
			ART UNIT	PAPER NUMBER
			2443	
			MAIL DATE	DELIVERY MODE
			07/07/2010	PAPER

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

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



WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of: Emre Baris AKSU, et al.
Application No. 10/778,941
Filed: Feb 13, 2004
For: METHOD FOR SIGNALING CLIENT
RATE CAPACITY IN MULTIMEDIA
STREAMING

**DECISION SUA SPONTE
WITHDRAWING HOLDING
OF ABANDONMENT**

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application. This decision is to correct typographical error relating to RCE and Abandonment dates in the previous decision mailed 6/15/10.

This application is held abandoned for failure to timely file a reply to the Board of Patent Appeals and Interferences Decision mailed Dec 11, 2008. The Notice of Abandonment was mailed on Feb 13, 2009.

37 CFR 1.198. states:

When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner **except under the provisions of § 1.114 or § 41.50** of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

MPEP 1214.07 states:

... if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application **will be reopened** and the **amendment will be entered**. See MPEP § 706.07(h), paragraph XI.

A review of the file record indicates that a Request for Continued Examination dated Feb 11, 2009 was timely filed based upon the receipt date of Board decision. Thus, the Notice of Abandonment mailed 13 Feb 2009 was premature.

The holding of Abandonment is hereby withdrawn.

The application is being forwarded to the appropriate personnel for treatment of the RCE filed Feb 11, 2009.

/Kim Huynh/

Kim Huynh, SPRE/QAS
Technology Center 2400
Network, Multiplexing, Cable and Security
571-272-4147



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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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APR 14 2008

OFFICE OF PETITIONS

In re Application of :
Peter Sutovsky et al. :
Application No. 10/778,942 : DECISION GRANTING PETITION
Filed: February 13, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. UVMO:026US :

This is a decision on the petition under 37 CFR 1.137(b), filed August 14, 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 reply to the Nonfinal Rejection mailed February 12, 2007, 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 August 14, 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 application is being referred to Technology Center AU 1644.

Karen Creasy
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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Paper No.

Angela Dallas Sebor
SHERIDAN ROSS P.C.
Suite 1200
1560 Broadway
Denver, CO 80202-5141

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Richard Schmidt	:	
Application No. 10/778,948	:	
Filed: February 13, 2004	:	DECISION ACCORDING STATUS
Attorney Docket No. 2848-28-PUS-1-3:	:	UNDER 37 C.F.R. § 1.47(b)
Title: USE OF NEUROTOXIN THERAPY	:	
FOR TREATMENT OF UROLOGIC AND	:	
RELATED DISORDERS RELATED TO	:	
URINARY RETENTION	:	

This is in response to the PETITION Under 37 CFR 1.47(b) filed November 12, 2004.

The petition is GRANTED.

The above-identified application was filed on February 13, 2004, without an executed oath or declaration, missing the statutory basic filing fee and with additional claim fees due. Accordingly, on May 14, 2004, a "Notice to File Missing Parts of Application - Filing Date Granted" was mailed, requiring applicant to submit an executed oath or declaration, a surcharge for late filing under § 1.16(e), and the missing fees. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

Rule 47 applicant responded with the instant petition and fee. This response was made timely by an accompanying petition and fee for extension for response within the fourth month. Rule 47 applicant petitions for an office of the current assignee of the application, The Regents of the University of Colorado, to file the above-identified application on behalf of inventor Schmidt. Rule 47(b) applicant asserts that such status under 37 C.F.R. § 1.47(b) is proper because inventor Schmidt has refused to join in the application.

A grantable petition under 37 CFR § 1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 CFR §§ 1.63 and 1.64 or 1.175; (2) that the rule 47 applicant state his or

her relationship to the inventor as required by 37 CFR § 1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a *prima facie* case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) that rule 47 applicant prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage. See MPEP §409.03(g). See 35 U.S.C. §118; 37 CFR 1.47; §§ 409.03 and 605 of the *Manual of Patent Examining Procedure*, Eighth Edition, Revision 2, (May 2004) (MPEP).

By declaration of patent administrator Annalissa Philbin and supporting documentary evidence, applicant has shown that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor, and that by his conduct, inventor Schmidt has refused to join in the application. The declaration filed November 12, 2004, has been reviewed and found in compliance with § 1.63. Moreover, the petition includes the petition fee and the last known address of inventor Schmidt. Petitioner has submitted a copy of the assignment to rule 47(b) applicant executed by inventor Schmidt and a statement by David Allen on behalf of the assignee (with 3.73(b) statement) that the filing date of the above-identified application is necessary to preserve the rights of the parties in the application and to prevent irreparable damage to the parties.

In view thereof, this application is hereby accorded Rule 1.47(b) status.

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

The application will be examined in Technology Center AU 1651 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090204

DATE : February 04, 2009

TO SPE OF : ART UNIT 1657

SUBJECT : Request for Certificate of Correction on Patent No.: 7,455,845

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:

/JON P WEBER/
Supervisory Patent Examiner.Art Unit 1657



**IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
REASEARCH TRIANGLE PARK NC 27709**

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MAR 20 2008

OFFICE OF PETITIONS

In re Application of :
Stephen James TODD :
Application No. 10/778,957 : **DECISION ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. :
GB920000013US3 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 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 May 03, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 04, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 03, 2007 is accepted as having been unintentionally delayed.

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

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 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 2162 for appropriate action by the Examiner in the normal course of business on the reply received



David A. Bucci
Petitions Examiner
Office of Petitions

C/c:

Joseph E. Bracken
Customer Number 25259, IBM Corporation
T81/503, P.O. Box 12195
Research Triangle Park, NC 27713



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FEB 07 2008

TECHNOLOGY CENTER 3600

John C. McMahon
PO Box 30069
Kansas City, MO 64112

In re Application of:
Sherre S. McMahon
Appl. No.: 10/778,963
Filed: February 13, 2004
For: NECKLACE EXTENSION

: PETITION TO WITHDRAW
: HOLDING OF ABANDONMENT
: UNDER 37 CFR 1.181(a)

This is a decision on the petition under 37 CFR 1.181(a) filed on October 4, 2007 requesting that the Notice of Abandonment of September 18, 2007 be withdrawn.

The Petition is **GRANTED**.

After review of the above file, the file history shows a decision was rendered by the Board of Patent Appeals and Interferences affirming the Examiner on August 27, 2007. The examiner sent a Notice of Abandonment on September 18, 2007, before the expiration of the period for seeking court review of the decision.

The Notice of Abandonment of September 18, 2007 has been vacated. A new Notice of Abandonment is attached to this petition decision. The period for seeking court review expired on October 27, 2007.

Petitioner's request to withdraw the holding of abandonment mailed September 18, 2007 is **GRANTED**. However a new Notice of Abandonment is being included, since the period for seeking court review has now expired.

SUMMARY: The Petition is **GRANTED**.

Any questions regarding this decision should be directed to SPE Patricia Engle at 571-272-6660.



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

snm/ple : 1/28/08

Attachment: Notice of Abandonment

Notice of Abandonment

Application No.

10/778,963

Examiner

David C. Reese

Applicant(s)

MCPMAHON, SHERRE S.

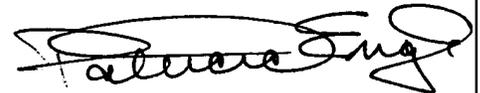
Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) No reply has been received.
2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) The issue fee and publication fee, if applicable, has not been received.
3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) No corrected drawings have been received.
4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. The decision by the Board of Patent Appeals and Interference rendered on 27 August 2007 and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. The reason(s) below:



PATRICIA ENGLE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

1-29-08

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



**COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE CA 95157**

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
JIANG	:	
Application No. 10/778,970	:	DECISION ON PETITION
Filed: February 13, 2004	:	TO WITHDRAW
Attorney Docket No. RMWR.P013(028327-00074)	:	FROM RECORD
	:	

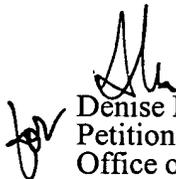
This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 24, 2006.

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

A review of the file record indicates that the power of attorney to Barbara Courtney has been revoked by the assignee of the patent application on June 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Monica A. Graves at 571-272-7253.


Denise Pothier
Petitions Examiner
Office of Petitions

cc: **ARENT FOX PLLC
1050 CONNECTICUT AVE NW, SUITE 400
WASHINGTON, DC 20036-6000**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090615

DATE : June 15, 2009

TO SPE OF : ART UNIT 3657

SUBJECT : Request for Certificate of Correction on Patent No.: 7124865

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



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Chris Duvall
2842 Colten Cove
Fayetteville AR 72701

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JUL 05 2005

OFFICE OF PETITIONS

In re Application of :
Duvall and Duvall :
Application No. 10/778,981 : ON PETITION
Filed: February 13, 2004 :
Title: DISPOSABLE PROTECTOR FOR
ENGAGING A CLOGGED TOILET AND
CONTAINING SPLASHES IN THE CLOGGED
TOILET OCCURRING DURING UNCLOGGING
OF THE CLOGGED TOILET BY A PLUNGER

This is in response to petition under 37 CFR 1.137(b), filed April 15, 2005, to revive the above-identified application.

The petition is **DISMISSED** without prejudice for reconsideration upon the timely submission of a new petition under 37 CFR 1.137(b) signed by **both** applicants. Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this letter. Extensions of time under 37 CFR § 1.136(a) are permitted. No additional petition fee is required.

37 CFR 1.33(b) states in pertinent part:

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 attorney or agent of record appointed in compliance with § 1.34(b);

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

By fax: (703) 872-9306
ATTN: Office of Petitions
(on or after July 15, 2005 the new fax
number is (571) 273-8300)

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: PTO/SB/64



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Chris Duvall
2842 Colten Cove
Fayetteville AR 72701

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AUG 17 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Duvall and Duvall :
Application No. 10/778,981 :
Filed: February 13, 2004 :
For: DISPOSABLE PROTECTOR FOR :
ENGAGING A CLOGGED TOILET AND :
CONTAINING SPLASHES IN THE :
CLOGGED TOILET OCCURING DURING :
UNCLOGGING OF THE CLOGGED :
TOILET BY A PLUNGER :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 5, 2005, to revive the above-identified application.

This application became abandoned for failure to respond timely to the Notice to File Missing Parts of Nonprovisional Application mailed on May 11, 2004, which set a two-month extendable period to reply. Petitioners did not obtain any extensions of time to respond to the Notice. Accordingly, this application became abandoned on July 12, 2004. A Notice of Abandonment was mailed on February 8, 2005.

On April 5, 2005, petitioners filed a petition under 37 CFR 1.137(b), which was dismissed by the decision of July 5, 2005, because both joint inventors did not sign the petition.

Petitioners have met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Accordingly, the petition is **granted**.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
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D1W Sep-07

LANG MICHENER LLP
BCE PLACE
SUITE 2500, 181 BAY STREET
TORONTO ON M5J 2T7
CANADA

COPY MAILED

SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
Malcolm Gibson Hodgskiss :
Application Number: 10/779011 : DECISION ON PETITION
Filing Date: 02/17/2004 :
Attorney Docket Number: :
2735/P1184US00 [77731-1] :

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

The petition is **GRANTED**.

The application became abandoned on 14 October, 2006, for failure to timely respond to the non-final Office action mailed on 13 July, 2006, which set a three (3) month shortened statutory period for reply. No extensions of time in accordance with 37

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).

CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 21 February, 2007.

Petitioner requests the present application be revived for copendency with a continuing application. A review of Office PALM records reveals that continuing application No. 11/739,027 was filed on 23 April, 2007.

Receipt is acknowledged of the power of attorney and change of correspondence address filed on 23 April, 2007.

Since this application is revived for purposes of continuity only with Application No. 11/739,027, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced continuing application.

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

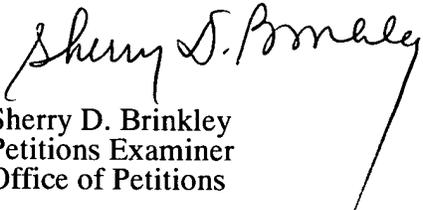


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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- .


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

DAVID F. FABEC
1601 CAMINO DE LA SIERRA, NE
ALBUQUERQUE NM 87112

MAILED

OCT 27 2009

OFFICE OF PETITIONS

In re Application of
David Frank Fabec
Application No. 10/779,023
Filed: February 13, 2004
Attorney Docket No. None

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:
:
:
:
:

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 1, 2008. The delay in responding is regretted; however, the petition was recently referred to the Office of Petitions for consideration.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 10, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 10, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 11, 2007. A Notice of Abandonment was subsequently mailed on August 22, 2007. A petition under the provisions of 37 CFR 1.137(b) was filed on September 27, 2007; however, the petition was dismissed in a decision mailed January 23, 2008. On February 1, 2008, the present petitions was filed.

The renewed petition is found to satisfy the requirements of 37 CFR 1.137(b).

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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

JUN 01 2006

John M. Grover
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of: DAIB et al. :
Appl. No.: 10/779,033 : DECISION ON PETITION
Filed: February 13, 2004 : Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS :

This is a response to the petition under 37 CFR 1.59(b), filed on December 20, 2005 by which petitioners request to expunge information from the above identified application.

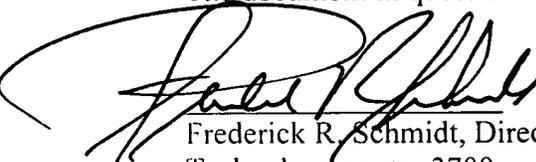
The decision on the petition is will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed December 20, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

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

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

The document in question will not be available to the public during prosecution.



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

In re Application of: DIAB et al. :
Appl. No.: 10/779,033 : DECISION ON PETITION
Filed: Feb. 13, 2004 : Under 37 CFR 1.59
For: SIGNAL PROCESSING APPARATUS :

This is a response to the petition under 37 CFR 1.59(b), filed on Dec. 20, 2005 by which petitioners request to expunge information from the above identified application.

The petition is granted.

Petitioner requests that documents listed on the Information Disclosure Statement filed Dec. 20, 2005 be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17 (g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

Applicant is required to retain the expunged material(s) for the life on any patent which issues on the above-identified application.

The expunged material has been removed from the official file. The material has been shredded.

Petition to expunge GRANTED.

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
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**AMSTED INDUSTRIES INCORPORATED
TWO PRUDENTIAL PLAZA
SUITE 1800
180 NORTH STETSON STREET
CHICAGO, IL 60601**

COPY MAILED

JUN 27 2007

OFFICE OF PETITIONS

In re Application of :
Brotherton et al. :
Application No. 10/779,037 : **ON PETITION**
Filed: February 17, 2004 :
Attorney Docket No. 6257 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 21, 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.

This matter is being referred to Technology Center 3700 for further examination on the merits.

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


Liana Walsh
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AMSTED Industries Incorporated
Two Prudential Plaza
Suite 1800
180 North Stetson Street
Chicago, IL 60601

COPY MAILED
NOV 25 2008

In re Application of :
Joseph A. Brotherton et al. :
Application No. 10/779,037 : DECISION ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. 6257 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 10, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on February 11, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, (2) the petition fee of \$1620, 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 so notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

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

This application is being referred to Technology Center AU 3724 for appropriate action by the Examiner in the normal course of business on the reply received.



Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Oliff & Berridge, PLC
P.O. Box 320850
Alexandria, VA 22320-4850

Application No: 10/779,037 Date: 11/23/08

CHECKLIST - PETITION TO REVIVE (UNINTENTIONAL) 37 CFR 1.137(b)

Petition under 37 CFR 1.137(b) requires:
1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee - utility and plant filed before 6/8/95 and all design cases;
4. Statement that the entire delay was unintentional.

Petition Date: 10/14/08

Petition Fee: () \$770/SM () ¹⁶²⁰\$1540/LG () Not Paid

Is statement of unintentional delay present? () YES () NO (Can statement be construed as unintentional?)

Is petition signed by attorney of record? () YES () NO Petition address the same as address in palm. () YES () NO

Mail Date of Office Action: 12/10/07

Type of Office Action: Notice of Appeal

Statutory Response Period Set: () 30 days () 1 month () 2 months () 3 months

Ext of time obtained w/in SSP: () None () 1 month () 2 months () 3 months () 4 months

Abandonment Date: 2/11/08

Type of reply received: Appeal Brief

Terminal Disclaimer required: () YES () NO (utility applications filed after 6/8/95 or before 5/29/00 and all design applications)

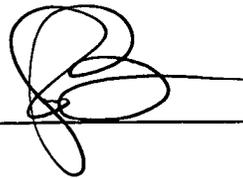
Petition Decision Codes

502 - 37 CFR 1.137(b) Revival based on unintentional delay in abandon application
510 - 37 CFR 1.137(b) Revival to accept late payment of issue fee (unintentional)

502
Granted

Fee Codes

1453/2453 \$1540/\$770 502/510 Petitions

Paralegal: 

() Dismissed () Granted



PATENT APPLICATION

DACT/DRW
Q

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Joseph A. BROTHERTON et al.

Group Art Unit: 3722

Application No.: 10/779,037

Examiner: W. FRIDIE, JR.

Filed: February 17, 2004

Docket No.: 6257 O&B Ref: 138615

For: BRAKE DRUM FINISHING AND BALANCING

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

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

Sir:

Applicants hereby petition for revival of this application. The above-referenced application became abandoned for failure to timely file an Appeal Brief after filing a Notice of Appeal on December 6, 2007. An Appeal Brief was due on February 6, 2008, extendible until July 6, 2008. The abandonment date of this application is February 7, 2008, one day after the two-month period for further action following the Notice of Appeal.

Applicants hereby provide the following required items for a grantable petition:

- (1) Petition Fee.

Attached is our Check No. 210940 for \$1,620.00 for the large entity fee under 37 C.F.R.

§1.17(m). Please credit or debit Deposit Account No. 15-0461 as needed to ensure

consideration of this petition.

10/15/2008 JADD01 00000002 10779037

02 FC:1453

1620.00 DP

- (2) Complete Response and/or Fee.

The proposed response and fee, in the form of an Appeal Brief and the associated fee, is attached.

(3) Verified Statement.

The entire delay in submitting the Appeal Brief, from its due date until the filing of this grantable petition, was unintentional.

(4) Terminal Disclaimer.

A Terminal Disclaimer is not required in this application, as the application was not filed before June 8, 1995.

Applicants submit that the requirements for a grantable Petition to Revive Unintentionally Abandoned Application have been met. Accordingly, applicants respectfully request that this petition be granted, that the accompanying Appeal Brief be accepted, and that the application be forwarded to the Examiner for further examination.

Should there be any questions regarding this matter, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,



Christopher W. Brown
Registration No. 38,025

Stephen P. Catlin
Registration No. 36,101

Edward J. Brosius
Registration No. 28,695

CWB:SPC/hs

Attachment:
Appeal Brief

Date: October 14, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--

10/779037

Examiner: FRIDIE JR, WILL

GAU: 3724

Inventor: BROTHERTON, JOSEPH, et al

Classification: 082/001.110

Status: 161 - ABANDONED -- FAILURE TO RESPOND TO AN OFFICE ACTION

Title: BRAKE DRUM FINISHING & BALANCING

Start Date: End Date:

bib_fee report (7 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/15/2008	126	1	1402	\$540.00	10/14/2008	CK
10/15/2008	127	1	1453	\$1,620.00	10/14/2008	CK
12/10/2007	38	1	1401	\$510.00	12/10/2007	CK
05/21/2007	140	1	1453	\$1,500.00	05/21/2007	CK
02/20/2004	219	1	1001	\$770.00	02/17/2004	CK
02/20/2004	220	1	8021	\$40.00	02/17/2004	CK
02/20/2004	221	6	9103	\$180.00	02/20/2004	CK



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MCDERMOTT, WILL & EMERY
Suite 3400
2049 Century Park East
Los Angeles CA 90067

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of
Uy et al.
Application No. 10/779,039
Filed: 02-13-2004
Attorney Docket No. 64706-037

DECISION ON PETITION

This is a decision on the petition filed March 6, 2007, to withdraw the holding of abandonment for the above-identified application.

On July 25, 2006, the Office mailed a nonfinal Office Action, which set a three month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on October 26, 2006. A Notice of Abandonment was mailed on February 27, 2007.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the nonfinal Office Action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the nonfinal Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the nonfinal 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. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances

that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the nonfinal Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the nonfinal Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required. The Office acknowledges receipt of the amendment submitted with the present petition on March 6, 2007.

The matter is being referred to the Technology Center Art Unit 2162 for review of the amendment filed on March 6, 2007.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 20 2004

CALIF KIP TERVO
6387 CAMINITO LAZARO
SAN DIEGO CA 92111

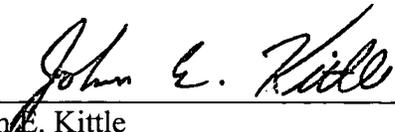
In re Application of :
Katherine Hess :
Serial No.: 10/779,060 : DECISION ON PETITION
Filed: February 12, 2004 :
For: Quilt Swag Decoration Template Set :
And Method :

This is in response to applicants' petition filed April 27, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.



John E. Kittle
Director,
Technology Center 3700/2900



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant : Charles E. Schiedegger : DECISION ON REQUEST FOR
Patent Number : 7650918 : RECALCULATION of PATENT
Issue Date : 01/26/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/779,076 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/13/2004 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **469** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Patent Docket Department
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

Mail Date: 04/29/2010

Applicant : William Macomber Leue : DECISION ON REQUEST FOR
Patent Number : 7609807 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/779,084 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/17/2004 : 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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Patent Docket Department
Armstrong Teasdale LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

Mail Date: 04/29/2010

Applicant : William Macomber Leue : DECISION ON REQUEST FOR
Patent Number : 7609807 : RECALCULATION of PATENT
Issue Date : 10/27/2009 : TERM ADJUSTMENT IN VIEW
Application No: 10/779,084 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/17/2004 : 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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APR 06 2006

Mr. Karl Hormann
PO Box 381516
Cambridge MA 02238-1516

In re Application of: VAN DER HEIDE :
Appl. No.: 10/779,119 : DECISION ON PETITION
Filed: February 16, 2004 :
For: SAVETY RAZOR :

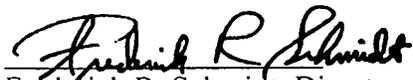
The letter filed March 17, 2006 has been construed as a petition to accept a duplicate paper. This is a decision on the petition by which petitioners request acceptance of a duplicate paper. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

On October 18, 2005 an Office Action (restriction/election) was issued in the instant file. A response to restriction requirement was allegedly filed by petitioner on October 25, 2005. This paper was not received by the Office, nor did petitioner receive a return postcard acknowledging receipt of the paper. Petitioner has submitted an evidentiary copy of the October 25, 2005 submission which includes a properly signed certificate of mailing under 37 CFR 1.8. However, petitioner has failed to included a statement attesting to the timely mailing of the correspondence as required under 37 CFR 1.8(b)(3). See MPEP 512, particularly section IV.

Petitioner is entitled to have reconsideration of this decision if filed within two months of this decision.

PETITION DISMISSED


Frederick R. Schmidt, Director
Technology Center 3700



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Law Offices of Karl Hormann
P.O. Box 381516
Cambridge MA 02238-1516

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NOV 07 2006

OFFICE OF PETITIONS

In re Application of :
Van der Heide :
Application No. 10/779,119 :
Filed: February 16, 2004 :
Attorney Docket No. 040624-US :

ON PETITION

This is a decision on the petition under 37 C.F.R. 1.181, filed April 20, 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 Restriction Requirement, mailed on October 18, 2005, which set forth an extendable 1 month period to reply. No extensions of time being obtained pursuant to 37 C.F.R. 1.136(a), the Office contended this application became abandoned on November 19, 2005 for failure to reply. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioner asserts that he mailed an election to the Office on October 25, 2005. The original response is not of record in the file and cannot be located. However, the copy of the election previously submitted on March 17, 2006 contains a proper certificate of mailing bearing an October 25, 2005 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The election bears a proper certificate of mailing, dated October 25 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the person signing the certificate, Registered Practitioner Karl Hormann, had reasonable basis to expect that the correspondence would be mailed on October 25, 2005, as he was responsible for mailing the correspondence. Mr. Hormann has provided a statement that he did deposit the correspondence the USPS on October 25, 2005.

The petition is **GRANTED** and the holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3724 for consideration of the election filed on certificate of mailing date October 25, 2005 and resubmitted on March 17, 2006.

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


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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OFFICE OF PETITIONS

In re Application of :
John G. Apostolopoulos, et al. :
Application No. 10/779,120 :
Filed: February 13, 2004 :
Attorney Docket No.: 200401896-1 :

ON PETITION

This is a decision on the petition, filed September 19, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

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 2819 for further processing of the request for continued examination under 37 CFR 1.114.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹The 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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2040 MAIN STREET, FOURTEENTH FLOOR
IRVINE, CA 92614

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JUL 02 2008

In re Application of

TAKIZAWA, et al.

Application No. 10/779,125

Filed: February 12, 2004

Attorney Docket No. **TAKIZ.003DV1**

OFFICE OF PETITIONS

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. § 1.136(b), filed March 17, 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 Daniel E. Altman on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed May 16, 2008 that requires a reply from the applicant.

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


Morica A. Graves
Petitions Examiner
Office of Petitions

CC: **SHIGEO TAKIZAWA**
24-5, SHOUNANDAI 4-CHOME
FUJISAWA, JAPAN 252-0804

CC: **K.A. PATENTS**
8806 CAMBRIDGE AVE # 1003
KANSASS CITY, MO 64138



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Paper No.

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60610-4764

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OFFICE OF PETITIONS

In re Application of :
Erickson et al. :
Application No. 10/779,132 : LETTER REGARDING
Filed: February 13, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 047542-0241 :

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT" filed September 13, 2007.

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

On August 28, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 159 days. Applicants state no basis for their conclusion that the patent term adjustment of 159 days indicated on the Notice of Allowance disagrees with the Applicants' own calculation of patent term adjustment.

A review of the application history supports a conclusion that the initial determination of 159 days is correct. It is noted that the application is subject to a terminal disclaimer filed August 17, 2007. However, this has no effect on the determination of patent term adjustment set forth on any patent

issuing from this application. 35 U.S.C. 154(b)(2)(B) provides that:

No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

Likewise, 37 CFR § 1.703(g) provides that:

No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.

The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

In view thereof, it is concluded that the determination of PTA at the time of the mailing of the notice of allowance of ONE HUNDRED FIFTY-NINE (159) days is correct.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office. If applicants still believe that correction is necessary, applicants should advise the Office of the specific basis for their disagreement with the initial determination of patent term adjustment.

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

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

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In re Application of :
Dean A. Erickson, et al. :
Patent No. 7,341,576 :
Application No. 10/779,132 :
Filed: February 13, 2004 :
Attorney Docket No. 047542-0241 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions



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PARKER INTELLECTUAL PROPERTY LAW OFFICE
536 PANTOPS CENTER # 234
CHARLOTTESVILLE VA 22911

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OFFICE OF PETITIONS

In re Application of :
Coffin, Edmund S. :
Application No. 10/779,137 : ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. CAST-0001-UTI :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 7, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$795.00 extension of time fee submitted with the petition on August 7, 2006, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 3600 for further examination 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:

MARK J. GUTTAG
JAGTIANI + GUTTAG
DEMOCRACY SQUARE BUSINESS CENTER
10363-A DEMOCRACY LANE
FAIRFAX, VA 22030



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MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application of :
Abbott, et al. :
Application No. 10/779,161 : ON APPLICATION FOR
Filed: February 13, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 032026-0774 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed September 8, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred sixty-nine (769) days, not three hundred forty-one (341) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

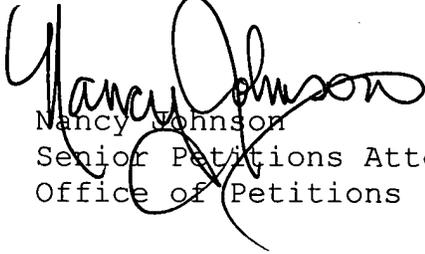
The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

A handwritten signature in black ink that reads "Nancy Johnson". The signature is written in a cursive style with a large, looping initial "N".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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MADISON, WI 53701-1497

Mail Date: 04/21/2010

Applicant	: Nicholas L. Abbott	: DECISION ON REQUEST FOR
Patent Number	: 7651662	: RECALCULATION OF PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/779,161	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **786** 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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30 SOUTH 17TH STREET
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OFFICE OF PETITIONS

Applicant: Suphellen et al.
Appl. No.: 10/779,169
Filing Date: February 11, 2004
Title: MEASUREMENT OF SPATIAL COORDINATES
Attorney Docket No.: ZNA-PT002
Pub. No.: US 2004/0160594 A1
Pub. Date: August 19, 2004

This is in response to the request for correction of patent application publication under 37 CFR 1.221(b), which was received on October 21, 2004.

The request is DISMISSED.

The instant request is that the patent application publication, which published on August 19, 2004, be republished because the publication includes a material error in that it did not include the preliminary amendment to the claims, which was filed with the application on February 11, 2004.

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

The request for corrected publication received on October 21, 2004, was not timely filed under 37 CFR 1.221(b).

The patent application publication does not include a mistake in the publication by the Office because patent application publications are not required to include preliminary amendments,

¹Changes 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).

according to 37 CFR 1.215(a)², which says the following, in part:

(a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

(c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment to the claims, the Office is not required to use the preliminary amendment. The Office has recently changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The applicant did not supply a copy of the application in compliance with § 1.215(c). The Office correctly published the application in accordance with § 1.215(a).

The Office has encouraged applicants to file Continuation or Divisional applications with the preliminary amendments already contained within the specification papers to be included in the pre-grant publication. See Pre-Grant Publication Helpful Hint: File Continuation or Divisional Application with a New Specification and Copy of Oath or Declaration from Prior Application, 1251 OG 54 (October 9, 2001).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicant's request for a corrected patent application publication on October 21, 2004, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the

²Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

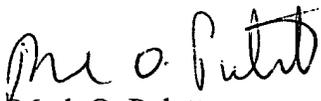
application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

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

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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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CAVEN & AGHEVLI
c/o INTELLEVATE LLC
PO BOX 52050
MINNEAPOLIS MN 55402

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Shannon, et al. :
Application No. 10/779,204 : ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. P18228 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed August 29, 2006. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time were obtained. No reply having been received, the application became abandoned on November 30, 2006. A Notice of Abandonment was mailed on January 10, 2008.

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

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

The matter is being forwarded to Group Art Unit 2186 for consideration of the Amendment filed April 10, 2008.

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



Cliff Congo
Petitions Attorney
Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Joseph W. Holland
HOLLAND & THIEL, P.C.
PO Box 1840
Boise, ID 83701-1840

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SEP 09 2004

OFFICE OF PETITIONS

In re Application of :
Holland and Bangerter :
Application No. 10/779,209 : DECISION GRANTING PETITION
Filed: February 13, 2004 :
Attorney Docket No. ZHJV101 :

This is a decision on the petition filed May 27, 2004, that is responsive to the Notice of Omitted Items in Nonprovisional Application mailed May 12, 2004.

On February 13, 2004, the application was deposited.

On May 12, 2004, the Office of Initial Patent Examination mailed a Notice stating that Figures 1-10 as described in the specification appeared to have been omitted. The application was accorded a filing date of February 13, 2004.

The instant petition was filed on May 12, 2004, indicating that petitioner was not able to establish that the omitted figures were filed on February 13, 2004, so a filing date as of the date the figures were filed would be accepted.

The Office has determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claim 17 is a method claims. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date of February 13, 2004.

In view of the above, the petition is granted. Petitioner should file an amendment requesting entry of Figures 1-10 filed on May 27, 2004, before the first action on the merits.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 13, 2004, using the application papers filed on that date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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Alexandria, VA 22313-1450
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MCCRACKEN & FRANK LLP
200 W. ADAMS STREET
SUITE 2150
CHICAGO, IL 60606

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OCT 24 2006

OFFICE OF PETITIONS

In re Application of
TEMES
Application No. 10/779,225
Filed: February 14, 2004
Attorney Docket No. 80033/40082A

:
:
DECISION ON PETITION
TO WITHDRAW
FROM RECORD
:
:
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 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).

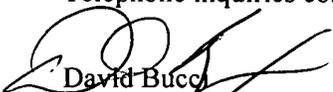
The request was signed by J. William Frank, III on behalf of all attorneys of record who are associated with customer number 29471.

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

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

A Review of the file discloses that a non-final Office action was mailed on July 25, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) are available. To date, there is no indication that a reply to the Office action of July 25, 2006 has been received.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.


David Bucca
Petitions Examiner
Office of Petitions

cc: Richard Temes
ON356 Ridgeland Avenue
West Chicago, IL 60185



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

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of
John G. Apostolopoulos et al.
Application No. 10/779,243
Filed: February 14, 2004
Attorney Docket No. 200402100-1

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:
:
:
DECISION DISMISSING PETITION
:

This is a decision on the petition filed June 9, 2005 under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of February 13, 2004, instead of the presently accorded filing date of February 14, 2004.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on February 13, 2004, pursuant to the requirements of 37 CFR 1.10. Petitioner submitted, *inter alia*, a copy of the post card receipt, date stamped by the USPTO and which bears the "Express Mail" tracking number EV375331826US but petitioner has not submitted a copy of the Express Mail mailing label as required for a petition under 37 CFR 1.10(c).

Paragraph (a) of 37 CFR 1.10 states that:

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

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other USPS notation, may petition the Commissioner to accord

¹See 37 CFR 1.6(a).

the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

A grantable petition under 37 CFR 1.10(c) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service **prior to the last scheduled pickup for that day**. In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

Petitioners have not provided a true copy of the "Express Mail" customer label nor explained why a copy of the Express Mail customer label showing the "date in" has not been provided. Any renewed petition must be accompanied by a copy of the Express Mail label showing the "date in" as completed by the USPS.

Accordingly, the petition is **DISMISSED**.

The application has been accorded a filing date of February 14, 2004 and no evidence has been submitted to accord any other filing date other than February 14, 2004. This matter is therefore being referred to Technology Center 2132 to be examined 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



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

LAW OFFICES OF JOHN DE LA ROSA
375 UPPER MOUNTAIN AVE
MONTCLAIR NJ 07043

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Victor J. Norris, Jr. :
Application No. 10/779,273 :
Filed: February 13, 2004 : DECISION ON RENEWED PETITION
Attorney Docket No. Norris-020 : UNDER 37 C.F.R. § 1.181(A)
Title: PERIMETER INTRUSION :
DETECTION AND DETERRENT SYSTEM :

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on May 15, 2008.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 25, 2007, 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 26, 2007. A notice of abandonment was mailed on April 30, 2008.

With the present petition, Petitioner has asserted that a response was timely submitted on March 24, 2008, along with a three-month extension of time so as to make timely this response, however the response contained the wrong serial number. Petitioner placed the serial number 10/779,272 on his response: consequently, this amendment was not matched with the

present electronic file. As such, the amendment was associated with application number 10/779,272.

Petitioner has also included a statement of facts and a copy of a postcard receipt, which contains the correct serial number and a date-stamp by the Office of Initial Patent Examination.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such. The Office will make an effort to assist practitioners if there is sufficient information on the filing to make possible identification of the proper application number¹. Nonetheless, consistent with his/her duty under Pratt² to handle the matter in the vein of one's most important business affairs, a practitioner must be cautious in preparation of his/her submissions³.

It is clear that the submission was timely received on March 24, 2008, and placed into the electronic file associated with application number 10/779,272.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The submission of March 24, 2008 has been removed from the electronic file associated with application number 10/779,272, and placed into the electronic file associated with the present application. The fee that is associated with the filing of a petition for a three-month extension of time will be associated with the electronic records that are associated with this application in due course.

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 response to the non-final Office action that was received on March 24, 2008 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that

1 See MPEP §§ 508.03(III) and 724.05(III).

2 Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

3 See MPEP § 502, which sets forth, *in pertinent part*, "Application number (checked for accuracy, including series code and serial no.) ...").

change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁴. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

⁴ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Law Offices of John De La Rosa
375 Upper Mountain Avenue
Montclair, NJ 07043

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OFFICE OF PETITIONS

In re Application of :

Victor J. Norris, Jr. :

Application No. 10/779,273 :

Filed: February 13, 2004 :

Attorney Docket No. Norris-020 :

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 23, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

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 571-272-4618.


Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Victor J. Norris, Jr.
3211B Corporate Court
Ellicott City, MD 21042



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375 Upper Mountain Avenue
Montclair, NJ 07043

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FEB 24 2009

OFFICE OF PETITIONS

In re Application of :
Victor J. Norris, Jr. :
Application No. 10/779,273 :
Filed: February 13, 2004 :
Attorney Docket No. Norris-020 :

**DECISION ON PETITION
TO WITHDRAW
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 February 2, 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 John de la Rosa on behalf of all attorneys/agents associated with customer number 27771. All attorneys/agents associated with customer number 27771 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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


Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Victor J. Norris, Jr.
3211B Corporate Court
Ellicott City, MD 21042



FEB 23 2005

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

MAILED

FEB 23 2005

OFFICE OF THE DIRECTOR
TC 3600

BAKER BOTTS, LLP
910 Louisiana
Houston, TX 77002-4995

In re application of	:	DECISION ON PETITION
Elaine V. Morley et al	:	TO MAKE SPECIAL
Application No. 10/779,274	:	(INFRINGEMENT)
Filed: February 13, 2004	:	
For: METHOD FOR COMPLYING WITH	:	
EMPLOYMENT ELIGIBILITY	:	
VERIFICATION REQUIREMENTS	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.102(d) filed January 12, 2005 to make the above-identified application special.

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

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

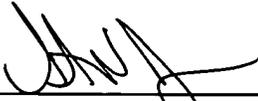
The petition filed January 12, 2005, meets all of the requirements above and is **GRANTED**.

Note for examination purposes the prior art cited by applicant should be provided in an IDS.

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/jwk: 2/1/05



ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE NY 11747-2712

COPY MAILED

OCT 27 2006

In re Application of : **OFFICE OF PETITIONS**
WILHELM :
Application No. 10/779,291 : **DECISION ON PETITION**
Filed: February 13, 2004 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. NEXTEK-BALLAST-CON :

This is a decision on the petition under 37 CFR 1.313(c), filed October 20, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

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

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

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

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

The Request for Continued Examination (RCE) fee has been paid. However, the RCE itself has **not** been received in addition to the Petition to Withdraw from Issue fee of \$130.00.

For the reason(s) stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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

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

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

By fax: **(571) 273-0025**
 Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.


Frances Hicks
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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ALFRED M. WALKER
225 OLD COUNTRY ROAD
MELVILLE NY 11747-2712

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OCT 27 2006
OFFICE OF PETITIONS

In re Application of :
WILHELM :
Application No. 10/779,291 : DECISION GRANTING PETITION
Filed: February 13, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NEXTEK-BALLAST-CON :

This is a decision on the renewed petition under 37 CFR 1.313(c)(2), filed October 27, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

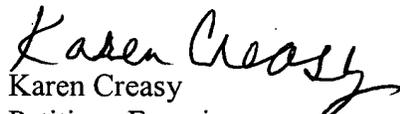
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 21, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Request for Continued Examination and Information Disclosure Statement.


Karen Creasy
Petitions Examiner
Office of Petitions

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



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RAYMOND Y CHAN
108 N YNEZ AVE SUITE 128
MONTEREY PARK CA 91754

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of :
Sheng-He Huang :
Application No. 10/779,304 : ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. CIP2411A-SHH :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 22, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed May 23, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on August 24, 2006. A Notice of Abandonment was mailed on January 19, 2007.

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

The matter is being forwarded to Group Art Unit 1645 for consideration of the Amendment filed March 22, 2007.

Application No. 10/779,304

Page 2

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

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions



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LAW OFFICES OF JACOBSON HOLMAN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 SEVENTH STREET, N.W.
WASHINGTON DC 20004

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of :
Duff :
Application No. 10/779,316 : DECISION ON PETITION
Filed: February 17, 2004 : UNDER 37 CFR 1.181
Attorney Docket No. P69165US1 :
For: CENTER PULL TISSUE DISPENSER
AND RELATED MECHANISM

This is a decision on the petition under 37 CFR 1.181, filed August 9, 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 due to applicant's alleged failure to timely reply to the non-final Office action mailed November 15, 2005, which set an extendable three month period for reply. The Office contended that this application became abandoned on February 16, 2006. A Notice of Abandonment was mailed on June 20, 2006.

Petitioner asserts that a petition for a three month extension of time with required fee and an amendment were timely received in the Office on May 15, 2006. In support of this assertion, petitioner has provided a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing May 15, 2006 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included authorization to charge \$510.00 to a credit card, a petition for a three month extension of time, and a response to an Office action.

The postcard receipt constitutes *prima facie* evidence that the items listed thereon were received in the Office on May 15, 2006. MPEP 503. Petitioner has provided a copy of the May 15, 2006 correspondence.

A review of the financial records for this application reveals that a \$510.00 three month extension of time fee was charged to a credit card on accounting date May 16, 2006.

It is apparent that a \$510.00 three month extension of time and an amendment were received in the Office on May 15, 2006 and later misplaced. The petition under 37 CFR 1.181 is granted, the holding of abandonment is withdrawn, and the June 20, 2006 Notice of Abandonment is vacated.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 3651 for consideration of the amendment filed on May 15, 2006 and resubmitted with the instant petition on August 9, 2006.

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


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



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JASON P. FIORILLO
K&L GATES LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

COPY MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of :
James Stuart Wight : **DECISION ON PETITION**
Application No. 10/779,322 : **TO WITHDRAW**
Filed: February 13, 2004 : **FROM RECORD**
Attorney Docket No. 9931-0049 :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 29, 2005.

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

A review of the file record indicates that on January 19, 2006 the power of attorney was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205



PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

In re Application of :
Chandler, et al. : DECISION ON PETITION
Application No. 10/779,324 :
Filed: February 13, 2004 :
For: 1318-PA03 :

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

The petition is GRANTED.

This application became abandoned October 26, 2004 for failure to timely reply to the Office communication mailed August 25, 2004. The Office communication set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed July 15, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions


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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/779,324	02/13/2004	Lance Chandler	1318-PA03

Eastman & Associates
 Suite 1800
 707 Broadway Street
 San Diego, CA 92101

CONFIRMATION NO. 5256



OC000000020117962

Date Mailed: 08/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/07/2006.

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

ALESIA M BROWN
 OP (571) 272-3205

FORMER ATTORNEY/AGENT COPY


UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/779,324	02/13/2004	Lance Chandler	1318-PA03

27189
 PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
 530 B STREET
 SUITE 2100
 SAN DIEGO, CA 92101

CONFIRMATION NO. 5256


OC000000020117963

Date Mailed: 08/21/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/07/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

 ALESIA M BROWN
 OP (571) 272-3205

ATTORNEY/APPLICANT COPY


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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
10/779,324	02/13/2004	Lance Chandler	1318-PA03

27189
 PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
 530 B STREET
 SUITE 2100
 SAN DIEGO, CA 92101

CONFIRMATION NO. 5256


OC000000020117963

Date Mailed: 08/21/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/07/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

ALESIA M BROWN
 OP (571) 272-3205

OFFICE COPY



Eastman & Associates
Suite 1800
707 Broadway Street
San Diego, CA 92101

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AUG 25 2006
OFFICE OF PETITIONS

In re Application of :
Sapp, et al. : DECISION ON PETITION
Application No. 10/779,325 :
Filed: February 13, 2004 :
For: 1318-PA02 :

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

The petition is **GRANTED**.

This application became abandoned July 15, 2004 for failure to timely reply to the Office communication mailed May 14, 2004. The Office communication set a two-month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed February 9, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The statement under 37 CFR 3.73(b) submitted herewith indicates a partial assignment. Accordingly, the change of correspondence address submitted herewith has not been entered into the record as it has not been properly executed by the remaining inventors. If practitioner desires to receive future correspondence regarding this application, the appropriate documentation must be submitted to the Office. **All future correspondence regarding this application will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.**

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

A handwritten signature in black ink, appearing to read 'Alesia M. Brown', with a long, sweeping horizontal flourish extending to the right.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101



WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

COPY MAILED

AUG 22 2008

In re Application of :
Guillermo G. Mor et al :
Application No. 10/779,360 : DECISION GRANTING PETITION
Filed: February 13, 2004 : UNDER 37 CFR 1.313(c)(2)
For: IN VITRO TEST TO DETECT RISK OF :
PREECLAMPSIA :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 20, 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 July 29, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

This application is being referred to Technology Center AU 1657 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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



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Paper No.

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

FEB 02 2009

OFFICE OF PETITIONS

In re Application of :
Gil G. Mor et al. : DECISION ON PETITION
Application No. 10/779,360 :
Filed: February 13, 2004 :
Atty Docket No.Y0087.70012US00:

This is a decision on the "PETITION UNDER 37 C.F.R. 1.182," filed July 29, 2008. This decision is made in light of the declaration for patent filed January 15, 2009.

Applicant petitions for the correction of the name of the first-named inventor in the above-identified application. Applicant states that the application was filed erroneously listing the first inventor as Guillermo G. Mor, which is not the legal name of the inventor. Applicant states that the legal name of the inventor is Gil G. Mor, and his name has not changed, but was entered incorrectly in the original filing papers. The petition includes payment of the fee under 37 CFR 1.182.

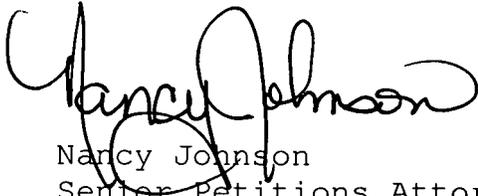
On January 15, 2009, applicant submits a declaration for patent signed by inventor Mor with his name identified as Gil G. Mor.

The petition is **GRANTED**.

The inventor's name is changed in the records of the Office to "Gil G. Mor."

Technology Center AU 1657 has been advised of this decision. The application is thereby forwarded to the Technology Center for appropriate action in due course.

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

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large initial "N" and "J".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG PA 17108-1166

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of :
Kantor et al. :
Application No. 10/779,366 :
Filed: 13 February, 2004 :
Atty Dcket No. GEN-001-97 DIV-B :

ON PETITION

This is a decision on the petition, styled under 37 CFR 1.57, which is treated as a petition under 37 CFR 1.53, filed on 21 October, 2005, requesting that the above-identified application be accorded a filing date of 13 February, 2004, with three (3) sheets of drawings as a part of the original disclosure.

The petition is granted.

The application was filed on 13 February, 2004. However, on 19 August, 2005, Initial Patent Examination Division mailed a "Notice Of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the application was deposited without drawings. 35 U.S.C. § 113 (first sentence) requires a drawings "where necessary for the understanding of the subject matter sought to be patented."

In response, on 21 October, 2005, the present petition was filed, accompanied by, *inter alia*, three (3) sheets of drawings. Petitioners assert that the above-identified application is a continuation of Application No. 10/279,607, and that the prior application was incorporated by reference on the transmittal letter. Petitioners further aver that the three (3) sheets of drawings filed with the present petition are a copy of the drawings from the above-referenced, prior-filed application.

A search of the official file reveals that on 13 February, 2004, a "Utility Patent Application Transmittal" letter was filed which states that the application is a continuation of application No. 10/279,607, and that the entire disclosure from the prior application is incorporated by reference.

The Office is construing the petition to mean that the drawings supplied on 21 October, 2005, constitute a copy of the drawings

supplied with the prior application. Petitioners **must** inform the Office if this is not a correct interpretation.

Based on the incorporation by reference statement appearing in the transmittal letter filed with the application papers, stating that the disclosure of the prior application (identified as Application No. 10/279,607) was incorporated by reference in the present application on 13 February, 2004, it appears that three (3) sheets of drawings were present in the Office on 13 February, 2003, albeit in the file of another application, *i.e.*, Application No. 10/279,607. Therefore, on petition, the application may be accorded the requested filing date.

The application will be processed and examined using the copy of the three (3) sheets of drawings supplied on 21 October, 2005, as a part of the original disclosure.

The copies of the other application papers supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The petition is granted. Since the petition was required to accord the requested filing date, the petition fee of \$400.00 will not be refunded.

Of course, the primary examiner is expected to compare the three (3) sheets of drawings supplied on 21 October, 2005, to the disclosure of prior application No. 10/279,607 in order to verify that the three (3) sheets of drawings are, in fact, part of the disclosure of the prior application.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 13 February, 2004, using the application papers filed on that date and the three (3) sheets of drawings supplied with the present petition, and for an indication in Office records that three (3) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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YING CHEN
CHEN YOSHIMURA, LLP
255 S. GRAND AVEUNE, # 215
LOS ANGELES CA 90012

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NOV 20 2007

In re Application of
LAND, et al.
Application No. 10/779,378
Filed: February 13, 2004
Attorney Docket No. **85032.0008**

:
:
: **OFFICE OF PETITIONS**
:
: DECISION GRANTING PETITION.
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 6, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

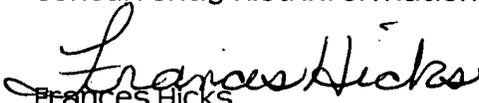
The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 30, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

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


Frances Hicks
Petitions Examiner
Office of Petitions

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.



William H. Francis
Reising Ethington Bames Kisselle P.C.
P.O. Box 4390
Troy MI 48099-4390

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DEC 04 2009

OFFICE OF PETITIONS

In re Application of :
Cory J. Doble et al. :
Application No. 10/779,394 : **DECISION ON PETITION**
Filed: February 13, 2004 :
Attorney Docket No. 582AC [2681.3171.001] :

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 timely pay the issue and publication fees on or before September 4, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 4, 2009. Accordingly, the date of abandonment of this application is September 5, 2009. A Notice of Abandonment was mailed on October 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510 and the publication fee of \$300, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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



Carl Friedman
Petitions Examiner
Office of Petitions

cc: William H. Francis
Suite 1850
755 W. Big Beaver Road
Troy, MI 48084



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United States Patent and Trademark Office
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William H. Francis
Reising Ethington Bames Kisselle P.C.
P.O. Box 4390
Troy, MI 48099-4390

Mail Date: 05/19/2010

Applicant : Cory J. Doble : DECISION ON REQUEST FOR
Patent Number : 7644873 : RECALCULATION of PATENT
Issue Date : 01/12/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/779,394 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/13/2004 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **172** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,412	02/13/2004	Guillermo C. Bazan	86053/8146	7769

7590 08/09/2006
David W. Maher, Ph.D.
FITCH, EVEN, TABIN & FLANNERY
Ste. 1600
120 So. LaSalle Street
Chicago, IL 60603-3406

EXAMINER

SISSON, BRADLEY L

ART UNIT PAPER NUMBER

1634

DATE MAILED: 08/09/2006

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



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

10/77,412

APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20060711

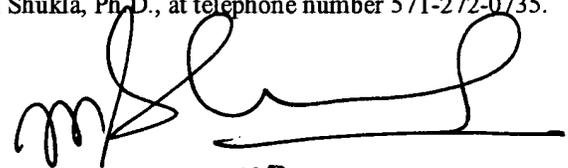
DATE MAILED:

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

Commissioner for Patents

The petition filed on 13 February 2004 seeking approval to include color drawings has been GRANTED.

Any inquiry concerning this communication should be directed to SPE Ram Shukla, Ph.D., at telephone number 571-272-0735.



RAM R. SHUKLA, PH.D.
SUPERVISORY PATENT EXAMINER

Ram Shukla, Ph.D.
Supervisory Patent Examiner
Art Unit: 1634



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NOV 15 2006
OFFICE OF PETITIONS

David W. Maher, Ph.D
Fitch, Even, Tabin & Flannery
Suite 1600
120 So. LaSalle Street
Chicago, IL 60603-3406

In re Application of	:	
Guillermo C. Bazan et al.	:	
Application No. 10/779,412	:	DECISION ON PETITION
Filed: February 13, 2004	:	TO WITHDRAW
Attorney Docket No. 86053/8146	:	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 25, 2006.

The request is **APPROVED**.

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

The request was signed by Scott J. Menghini on behalf of all attorneys of record who are associated with Customer No. 22242.

All attorneys/agents associated with the Customer No. 22242 have been withdrawn.

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

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

There is no outstanding Office action at this time.
Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Guillermo C. Bazan**
1068 Cheltenham
Santa Barbara, CA 93106

cc: **Biotechnology Law Group**
527 N. Highway 101
Suite E
Solana Beach, CA 92075



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/779,412	02/13/2004	Guillermo C. Bazan	86053/8146

David W. Maher, Ph.D.
 FITCH, EVEN, TABIN & FLANNERY
 Ste. 1600
 120 So. LaSalle Street
 Chicago, IL 60603-3406

CONFIRMATION NO. 7769

OC000000021223367

OC000000021223367

Date Mailed: 11/14/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/25/2006.

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

TERRI S WILLIAMS
 OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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JEFFREY S. WHITTLE
BRACEWELL & PATTERSON
P.O. BOX 61389
HOUSTON, TX 77208-1389

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OFFICE OF PETITIONS

In re Application of :
Jon A. Boaz :
Application No. 10/779,429 : DECISION ON PETITION
Filed: February 13, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 027299.02 :

This is a decision on the petition, filed September 21, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 2, 2006. 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:

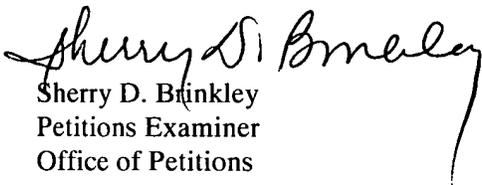
- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing 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.

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

This application is being referred to Technology Center Art Unit 2612 for further prosecution.


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

MAIL

FEB 28 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MICROSOFT CORPORATION
ATTN: PATENT GROUP DOCKETING DEPARTMENT
ONE MICROSOFT WAY
REDMOND WA 98052-6399

In re application of :
SEDKY, KHALED, et al. :
Application Serial No. 10/779,430 :
Filed: February 13, 2004 :
For: **SCALABLE PRINT SPOOLER** :

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed September 7, 2005, to expunge information from the above identified application.

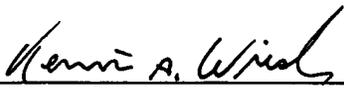
The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in an Information Disclosure Statement, filed March 7, 2005, be expunged from the record. Petitioner states that failure to obtain its return would cause irreparable harm to Applicant, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

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

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

The document in question will not be available to the public during prosecution.


Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications



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MAY 13 2008

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600**

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re application of
SEDKY, KHALED, et al.
Application Serial No. 10/779,430
Filed: February 13, 2004
For: **USE OF A SCALABLE PRINT
SPOOLER FOR HANDLING PRINT
REQUESTS**

DECISION
ON PETITION

This is a response to the petition under 37 CFR 1.59(b), filed January 23, 2008, to expunge information from the above identified application.

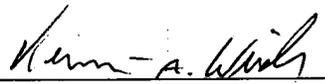
The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in an exhibit January 23, 2008, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

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

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

The document(s) in question will not be available to the public during prosecution



Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications



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STEPHEN E. FELDMAN
12 EAST 41ST STREET
SUITE 701
NEW YORK NY 10017

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JAN 25 2008
OFFICE OF PETITIONS

In re Application of :
Fuhrman et al. :
Application No. 10/779,433 : DECISION ON PETITION
Filed: February 13, 2004 :
Attorney Docket No. 103342-48580 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue fee, (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 the Publishing Division for processing into a patent.


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

Mail Date: 04/20/2010

Applicant : Stefanie Flohr : DECISION ON REQUEST FOR
Patent Number : 7652007 : RECALCULATION of PATENT
Issue Date : 01/26/2010 : TERM ADJUSTMENT IN VIEW
Appliction No : 10/779,439 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/13/2004 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **670** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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



SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES, CA 90071-1448

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OFFICE OF PETITIONS

In re Application of :
Nestor Tzartzanis : DECISION ON PETITION
Application No. 10/779,464 : UNDER 37 CFR 1.137(b)
Filed: February 13, 2004 :
Attorney Docket No. Q2EK-108868 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 13, 2006, to revive the above-identified application.

The petition is granted.

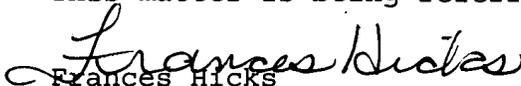
This application became abandoned for failure to timely pay the issue and publication fees on or before February 7, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed November 7, 2005.

The petition satisfies the requirements for a grantable petition in that the (1) reply in the form of payment of the \$1,400 issue fee and \$300 publication fee, (2) the \$ 1,400 petition fee, and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the above-listed address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.


Frances Hicks
Petitions Examiner
Office of Petitions

cc:

David Schnapf
SHEPPARD MULLIN RICHTER & HAMPTON LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111



UNITED STATES PATENT AND TRADEMARK OFFICE

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Ivan D. Zitkovsky
6 Freeman Circle
Lexington, MA 02421-7713

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JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
James W. Overbeck, et al. :
Application No. 10/779,482 :
Filed: February 14, 2004 :
Attorney Docket No. 3324.1A (01US2) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to a "Notice to File Missing Parts of Nonprovisional Application."

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the required filing fee and late surcharge; (2) the petition fee of \$1500; and (3) an adequate statement of unintentional delay.

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



UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 25 2005

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

EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK NY 10165

In re Application of :
HANSEN, Peter, et al. : DECISION ON PETITION
Application No. 10/779,486 : TO WITHDRAW THE
Filed: February 13, 2004 : HOLDING OF ABANDONMENT

For: SYSTEM FOR PROVIDING STEP OUT COMMISSIONS AND COMPENSATION FOR RESEARCH BROKERS

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on March 30, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed May 13, 2004. A Notice of Abandonment was mailed on February 9, 2005.

Applicant's petition indicates that the Notice to File Corrected Application Papers mailed May 13, 2004 was never received. In support thereof applicant has provided an extract of the firms electronic docket records for the instant application (Appendix I) as well as other applications in which a Notice to File Corrected Application papers have been received (Appendices II, III and IV).

There is a strong presumption that Office communications properly addressed and delivered to the United States Postal Services, are in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

- (3) 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.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office with the due date at and around July 13, 2004.** See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The petitioner has failed to comply with requirement (3) indicated above. Applicant has only set forth that the Office communication mailed May 13, 2004 was not received or placed in the physical or electronic docket for application 10/779,486. A complete docket record with a copy of the list of **all** responses in the practitioner's office with the due date at and around July 13, 2004 is required.

Petitioner's evidence of non-receipt of the Office communication mailed May 13, 2004 is insufficient to withdraw the holding of abandonment, and 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 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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

SNM/rjc 07/21/05



EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK NY 10165

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OFFICE OF PETITIONS

In re Application of
Hansen et al.
Application No. 10/779,486
Filed: February 13, 2004
Attorney Docket No. 1100-074

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 23, 2005.

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

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on May 13, 2004. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 13, 2004. A Notice of Abandonment was mailed on February 9, 2005. A petition to withdraw the holding of abandonment was dismissed on July 25, 2005.

Petitioner states the Notice to File Corrected application papers mailed on February 18, 2003 was never received. Petitioner states a search of the file jacket and docket records confirms the Notice was not received. In support of petitioner's contention, a copy of the file jacket and docket records have been provided.

In view of the evidence presented, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

In light of the submission of drawings on September 23, 2005, the application is being referred to the Office of Initial Patent Examination for review of the drawings submitted.

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

A handwritten signature in black ink, appearing to read "Charlema R. Grant". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charlema R. Grant
Petitions Attorney
Office of Petitions



Cynthia L. Foulke
NATIONAL STARCH AND CHEMICAL COMPANY
10 Funderne Avenue
Bridgewater NJ 08807-0500

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of :
He et al. :
Application No. 10/779,505 :
Filed: 02-13-2004 :
Attorney Docket No. 3075.NWN :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on February 28, 2007, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on its merits. The Office apologizes for any inconvenience.

The application became abandoned on October 28, 2006, for failure to file a timely and proper response to the final Office action mailed on July 27, 2006, which set a three (3) month shortened statutory period for reply. On February 16, 2007, the Office mailed a Notice of Abandonment.

With the present petition, petitioner submitted an amendment in response to the final Office action. Upon reviewing the amendment, the examiner determined that the amendment did not place the application in condition for allowance. An Advisory Action accompanies this decision. Additionally, petitioner submitted a notice of appeal and fee.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a Notice of Appeal and paid the requisite fees. Accordingly, the petition is **granted**. **Petitioner must file an appeal brief within two months from the mailing date of this decision.**

This matter is being referred to Technology Center Art Unit 1711.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Green et al. :
Application No. 10/779,532 :
Filed: February 13, 2004 :
Attorney Docket No. VPI/99-109 DIV US :

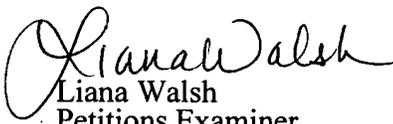
This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA VA 22314

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DEC 26 2007

OFFICE OF PETITIONS

In re Application of :
Tanaka, et al. :
Application No. 10/779,628 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No. 248863US6 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 4, 2007.

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

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed August 1, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on November 2, 2007. A Notice of Abandonment was mailed on November 30, 2007.

Petitioner states that he did not receive the Notice of Allowance, which he claims was sent electronically. However, after reviewing the application file, there is no indication that the Notice of Allowance was sent electronically. Rather, the file indicates that the Notice of Allowance was mailed via regular mail. The Notice of Abandonment appears to be the first communication from the Office that was delivered electronically.

To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed.¹ A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."² "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing **all** replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."³

Accordingly, on renewed petition, petitioner would need to satisfy elements 1 - 3 above, in particular, submit a copy of a proper docket report evidencing non-receipt of the Notice of Allowance.

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

¹ See MPEP 711.03(c) (II).

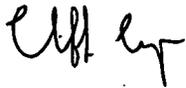
² MPEP 711.03(c) (II) (emphasis added).

³ Id.

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



OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of :
Tanaka, et al. :
Application No. 10/779,628 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No. 248863US6 :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 10, 2008.

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

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed August 1, 2006. This Office action set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on November 2, 2007. A Notice of Abandonment was mailed on November 30, 2007. Applicants filed a petition to withdraw the holding of abandonment on December 4, 2007. Applicants stated that they did not receive the Notice of Allowance, which was asserted to have been sent electronically. However, the petition was dismissed in a decision mailed on December 26, 2007. The petition pointed out that a review of the file indicated that the Notice of Allowance was sent via regular mail.

As pointed out on renewed petition, the undersigned has conferred with Tony Uranga, Program Analyst with SIRA, who confirmed that the August 1, 2006 Notice of Allowance was electronically delivered on November 30, 2006, after the statutory period for replying thereto had already expired.

In view thereof, the petition is granted.

The matter is being forwarded to Group Art Unit 2617 for re-delivery of the Notice of Allowance and Notice of Allowability, setting a new period for reply.

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

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
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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JAN 14 2005

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of :
Anthony J. Celeste et al :
Serial No.: 10/779,635 : PETITION DECISION
Filed: February 18, 2004 :
Attorney Docket No.: 08702.0079-03000 :

This is in response to the petition under 37 CFR 1.59(b), filed October 26, 2004, to expunge a
Information from the above identified application..

Petitioner requests that the affidavit IDS form 1449 submitted with the application on February
18, 2004, be expunged from the record. Petitioner states that the paper was filed on the same day
as the instant application, but belongs to a different application, and was erroneously included
with the papers for this application file. A comparison of attorney docket numbers and
inventor's names on the IDS confirms this fact.

The IDS has been closed to public access in the IFW file and will not be further considered by
the examiner. As the file is a scanned file, physical return of the papers cannot be effected.

The petition is **GRANTED** to the extent indicated.

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

Jaasemine C. Chambers
Jaasemine C. Chambers
Director, Technology Center 1600



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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**WRB-IP LLP
1217 KING STREET
ALEXANDRIA VA 22314**

COPY MAILED

FEB 15 2008

OFFICE OF PETITIONS

In re Application of :
Zeigler, Theodore R. :
Application No. 10/779,636 : **DECISION ON PETITION**
Filed: February 18, 2004 :
Attorney Docket No. 000002-003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 3635 for further examination on the merits.


Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 27, 2007

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No. 10/779686 patent no.7190159

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.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: _____

/Patrick J. Assouad/

au2862

SPE

Art Unit



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47 BILU ST.
APT. 4
TEL-AVIV 64256 IL ISRAEL

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NOV 06 2008

OFFICE OF PETITIONS

In re Patent No. 7,208,672 :
Issue Date: April 24, 2007 :
Application No. 10/779,692 : **ON PETITION**
Filed: February 18, 2004 :
Attorney Docket No. NOAMC-0001-2004 :

This is a decision on the petition under 37 CFR 1.181, filed July 25, 2008, requesting correction of an improper Certificate of Mailing and on the petition under 37 CFR 1.182, filed September 30, 2008, requested expedited consideration of the petition filed July 25, 2008.

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

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

In reply to the Notice of Allowance and Issue Fee(s) Due mailed January 22, 2007, the issue fee was duly paid on March 13, 2007.

On April 24, 2007, U.S. Patent No. 7,208,672 issued on the instant application.

The instant petition was filed July 25, 2008.

Petitioner requests that the patentee's failure to mail a letter containing a Certificate of Mailing with the United States Postal Service be corrected by a retroactive extension of time.

As set forth in MPEP 1305:

Once the patent has been granted, the U.S. Patent and Trademark Office can take no action concerning it, except as provided in 35 U.S.C. 135, 35 U.S.C. 251 through 256, 35 U.S.C. 302 through 307 and 35 U.S.C. 311 through 316.

Accordingly, once the patent is granted, the Office has no jurisdiction over the patent. Also, see *Aristocrat Technologies Australia v. International Game Technologies* 2008 U.S. App. LEXIS 20060 (Fed. Cir. 2008) "[p]rocedural lapses during examination, should they occur, do not provide grounds of invalidity. Absent proof of inequitable conduct, the examiner's or the applicant's absolute compliance

with the internal rules of patent examination becomes irrelevant after the patent has issued." The case was decided September 22, 2008.

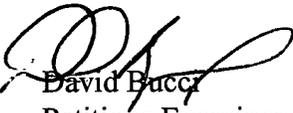
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
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By hand: U. S. Patent and Trademark Office
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 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

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

Telephone inquiries should be directed to the undersigned at 571-272-7099.


David Bucca
Petitions Examiner
Office of Petitions



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WILLIAM O'DRISCOLL – 12-1
TRANE
3600 PAMMEL CREEK ROAD
LA CROSSE, WI 54601

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Danny D. Beaver :
Application No. 10/779,755 : **ON PETITION**
Filed: February 17, 2004 :
Attorney Docket No. D-2511Div1/WOD :

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 8, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 9, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1020 extension of time submitted with the petition on February 21, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This matter is being referred to Technology Center AU 3726 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

jm

Mailed: 9-4-07

In re application of

Harald Schaty

Serial No. 10/779,771

Filed: February 18, 2004

For: DISK-SHAPED OBJECT OF SYNTHETIC THERMOPLASTIC MATERIAL, AND
METHOD FOR PRODUCING SAME

:
:
: DECISION ON
: PETITION
:

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF
THE OFFICE ACTION mailed July 5, 2006.

The instant petition was filed on August 4, 2006. In the petition, it is urged that the final office action
mailed July 5, 2006 was improperly made final.

DECISION

It is noted that a Request for Continued Examination was filed by applicants on November 6, 2006,
thereby making the instant petition moot. Accordingly the petition is **DISMISSED**.

Jacqueline M. Stone

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

MILES & STOCKBRIDGE, P.C.
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VIRGINIA 22102-3833



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032005

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

MAR 14 2005

In re Application of :
Ji-Yong Park et al. :
Serial No.: 10/779,781 :
Filed: November 01, 2004 :
Attorney Docket No.: 6161.0111.US :

**DECISION ON PETITION TO
MAKE SPECIAL**

This is a decision on the petition under 37 C.F.R. § 1.102, filed November 1, 2004, to make the above-identified application special.

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

A petition is grantable if it complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination. It must be accompanied by (a) a petition fee of \$130.00, (b) a statement that all claims are directed a single invention and an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

The petition lacks item (b) above. To expedite the examining proceeding of this application, this decision is rendered based on the assumption that all claims presented in this application are directed to a single invention. However, should the examiner hold that the claims are not directed to a single invention, applicant is hereby required to make an oral election without traverse. Failure to make an oral election without traverse would result in the application file being returned to the Group Director's office for issuance of a decision vacating this decision and withdrawing the special status granted hereby.

The petition is GRANTED to the extent indicated above.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.


Hien H. Phan, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components



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JUL 26 2007

NIXON & VANDERHYE P.C.
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

TECHNOLOGY CENTER 2100

In re Application of: Wrigley et al.)
Application No. 10/779,807)
Attorney Docket No. 550-526)
Filed: February 18, 2004)
For: DIRECT ACCESS MEMORY)
CONTROL)

DECISION ON PETITION TO
WITHDRAW RESTRICTION
REQUIREMENT UNDER 37 CFR
§1.144

This is a decision on the petition filed March 7, 2007 under 37 C.F.R. §1.144 and 37 C.F.R. §1.181 to withdraw an outstanding restriction requirement.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

- May 5, 2006 Requirement for Restriction/Election mailed identifying 4 Species. Indicated claims 1 and 17 to be generic.
- June 5, 2006 Applicant elect Species 1 with traverse, electing Species disclosed in Figs. 3 and 7, and claims 2, 6-11, 13-16, 18, 21-26, and 28-31. Applicant traversed that species disclosed by Fig. 5 was a subset of those disclosed by Fig. 3, and species disclosed by Fig. 8 was the same as Fig. 3. Applicant also argued that claims 12, 27, and 32 were generic in addition to claims 1 and 17.
- June 30, 2006 FAOM mailed. Applicants arguments were found unpersuasive, and Restriction was made final. Claims 1-12 and 17-27, and 32 were withdrawn from consideration, as being drawn to non-elected Species IV, there being no allowable generic or linking claim. Examiner rejected claims 13-16 and 28-31 over art.
- September 29, 2006 Applicant filed a Request for Reconsideration of the Restriction requirement and also the art rejection. Applicant traversed the restriction requirement on the basis that claim 13 was generic to figs. 3, 5, 7, and 8,

and would result in the examination of Species I, II, and III disclosed in those figures.

- December 7, 2006 Final rejection was mailed. Applicants' argument regarding generic claim were found unpersuasive.
- March 7, 2007 Instant petition filed, submitting that claims 13 and 28 are generic claims.
- June 7, 2007 Applicant initiated interview: Request for reconsideration persuasive, and examiner offers to withdraw finality of action mailed 12/7/06, and issue a new office action.

REGULATIONS AND PRACTICE

37 C.F.R. § 1.143 states:

If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 C.F.R. § 1.144 states:

After a final requirement for restriction, the applicant, in addition to making any reply due on the remainder of the action, may petition the Commissioner to review the requirement ... A petition will not be considered if reconsideration of the requirement was not requested (see § 1.181).

37 C.F.R. § 1.181 states:

- (a) Petition may be taken to the Commissioner:
- (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
 - (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and
 - (3) To invoke the supervisory authority of the Commissioner in appropriate

circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

MPEP § 803 states:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 - § 806.04(i)) or distinct (MPEP § 806.05 - § 806.05(i)).

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

CRITERIA FOR RESTRICTION BETWEEN PATENTABLY DISTINCT INVENTIONS

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).... For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02....

MPEP § 806.04(d) [R-3] states:

Definition of a Generic Claim:

In an application presenting three species illustrated, for example, in Figures 1, 2, and 3, respectively, a generic claim should read on each of these views; but the fact that a claim

does so read is not conclusive that it is generic. It may define only an element or subcombination common to the several species.

** In general, a generic claim should *require< no material element additional to those **>required by< the species claims, and ** each of the species >claims must require all the limitations of the generic claim<.

** Once a **>generic claim is allowable<, all of the claims drawn to species in addition to the elected species which *require< all the limitations of the generic claim will ordinarily be * allowable >over the prior art< in view of the *allowability< of the generic claim, since the additional species will depend thereon or otherwise *require< all of the limitations thereof. When all or some of the claims directed to one of the species in addition to the elected species do not *require< all the limitations of the generic claim,

** see MPEP § *821.04(a)<.

MPEP § 821.01 states:

Where the initial requirement is traversed, it should be reconsidered. If, upon reconsideration, the examiner is still of the opinion that restriction is proper, it should be repeated and made final in the next Office action. (See MPEP § 803.01.) In doing so, the examiner should reply to the reasons or arguments advanced by applicant in the traverse. Form paragraph 8.25 should be used to make a restriction requirement final.

DECISION

37 C.F.R. § 1.181(c) requires that an action by an examiner, to be properly petitionable, must be followed by a request for reconsideration, and a repeated action by the examiner. 37 C.F.R. § 1.144 states that the applicant may petition the Commissioner after a final requirement for the restriction has been made.

In the above-identified application, the restriction requirement was made final on the FAOM mailed 6/30/06. Applicant filed a request for reconsideration on 9/29/06, prior to the petition of March 7, 2007, in accordance with 37 C.F.R. § 1.143. Examiner maintained the restriction requirement, and issued a final rejection on 12/07/06.

The issue presented in the petition is whether the restriction based on whether claims 13 and 28 are generic claim that reads on more than one species in the instant application.

A review of the record reveals that the Office action mailed May 5, 2006 set forth an election requirement requiring a provisional election between four species identified as (1) Figs. 3 and 7, (2) Fig. 5, (3) Fig. 8, and (4) Fig. 9, and indicating that claims 1 and 17 appear to be generic.

Applicants elected the species of Figs. 3 and 7 with traverse in the response filed May 5, 2006. The examiner, upon reconsideration, adhered to the election requirement and made the election requirement final, and indicated that there were no allowable generic claims in the Non-Final rejection mailed on June 30, 2006. Applicant filed a request for reconsideration, submitting that claim 13 was generic to figs. 3, 5, 7, and 8, and hence generic to the species in the 4 figures. Examiner mailed a Final rejection, finding applicants arguments unpersuasive for the following reasons:

1. Claim 13 and 28 do not read on figs. 9.
2. Species II illustrated by Fig. 5 requires 2 separate registers, which is different from Species I.
3. Species I and III are different because Species I discloses DMAC with a register inside while Species III discloses DMAC without a register.

This petition was then timely filed, on March 7, 2007, along with a request for reconsideration of the final rejection on the grounds that claim 13 is generic to claims 3, 5, 7 and 8.

Applicants' petition alleges that the election requirement is improper because there is significant overlap between the claims of the identified groups of invention due to the presence of generic claims and that the subject matter is sufficiently related such that a thorough search for the subject matter of the elected species would encompass a search for the subject matter of the other species. The petition also alleges that examiner failed to explain how and why claim 13 would not read on figures 3, 5, 7, and 8.

As per MPEP 806.04(d),

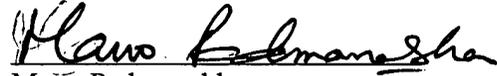
1. a generic claim should read on each of these views;
2. In general, a generic claim should *>require< no material element additional to those **>required by< the species claims, and
3. ** each of the species >claims must require all the limitations of the generic claim<.

Claims 13 and 28, seem to meet the requirements set forth above for a generic claim. Further, the reviewer agrees with the examiner's statements in the Interview summary mailed on June 7, 2007, wherein the examiner states that the applicant's arguments were persuasive in the request for reconsideration.

For the above reasons, the petition is **GRANTED**.

The finality of the office action mailed 12/06/2006 is hereby withdrawn.

The application will be forwarded to the examiner for further action.



Maño Padmanabhan

Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210



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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of
Frank Ryll
Application No. 10/779,822
Filed: February 18, 2004
Attorney Docket No. 449122068100

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**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 25, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on August 8, 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: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690



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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/779,842	02/18/2004	Jong Woo Kim	041501-5551-01

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

CONFIRMATION NO. 9434
OC000000017377198
OC000000017377198

Date Mailed: 11/02/2005

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2005.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

DARLENE Y BROWN
2800 (571) 272-1559

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/779,842	02/18/2004	Jong Woo Kim	041501-5551-01

 009629
 MORGAN LEWIS & BOCKIUS LLP
 1111 PENNSYLVANIA AVENUE NW
 WASHINGTON, DC 20004

CONFIRMATION NO. 9434
OC000000017379543
 OC000000017379543

Date Mailed: 11/02/2005

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/25/2005.

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

 DARLENE Y BROWN
 2800 (571) 272-1559

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MAYER BROWN ROWE & MAW LLP
1909 K STREET NW
WASHINGTON, DC 20006

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MAR 09 2006

OFFICE OF PETITIONS

In re Application of	:
John A. Lawton et al	:
Application No. 10/779,865	: DECISION ON PETITION
Filed: February 18, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 102456-40308370	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/948,713, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

The reference to add the prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. 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).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a proper amendment¹ deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

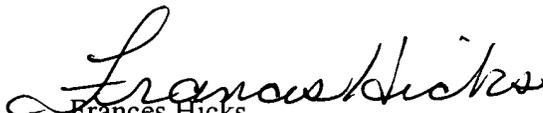
Further correspondence with respect to this matter should be addressed as follows:

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 Alexandria, VA 22313-1450

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

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

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


Frances Hicks
Petitions Examiner
Office of Petitions

¹ Note 37 CFR 1.121



**MAYER BROWN ROWE & MAW LLP
1909 K STREET NW
WASHINGTON, DC 20006**

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APR 04 2006

OFFICE OF PETITIONS

In re Application of :
John A. Lawton et al : SUBSTITUTE
Application No. 10/779,865 : DECISION ON PETITION
Filed: February 18, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 102456-40308370 :

This is a SUBSTITUTE decision on the petition under 37 CFR 1.78(a)(3), filed December 19, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/948,713, as set forth in the concurrently filed amendment. The decision on petition mailed March 9, 2006 is vacated for the reason stated below.

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

The decision mailed March 9, 2006 dismissed the petition of December 19, 2005 on the basis that the amendment to add a reference to the above-noted, prior-filed nonprovisional application contained an improper incorporation by reference statement. However, in reviewing the transmittal letter accompanying the application papers, it is noted that an incorporation by reference statement to the above-noted, prior-filed nonprovisional application was in fact present. While it is more appropriate for the incorporation by reference statement to appear in the first sentence of the specification following the title, the Office will accept for purposes of this petition the presence of the incorporation by reference statement in the transmittal letter accompanying this application. For this reason, the decision mailed March 9, 2006 is vacated.

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

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that 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 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 nonprovisional application, was mailed to applicant on February 18, 2005.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1752 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.¹



Frances Hicks
Petitions Examiner
Office of Petitions

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¹ Petitioner should note that failure to timely reply to the final Office action mailed March 17, 2006 will result in the abandonment of the application.



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MAYER BROWN ROWE & MAW LLP
1909 K STREET NW
WASHINGTON, DC 20006

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
John A. Lawton et al :
Application No. 10/779,865 : DECISION ON PETITION
Filed: February 18, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 102456-40308370 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 18, 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 concurrently filed amendment.

The petition is **DISMISSED** as moot in view of the granting of a petition under 37 CFR 1.78(a)(3) on April 4, 2006 in applicant's favor, as noted by the Examiner in the final Office action mailed October 4, 2006.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is currently before the Examiner of Technology Center Art Unit 1752 for appropriate action on the reply received March 30, 2007.


Frances Hicks
Petitions Examiner
Office of Petitions

10/779886

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-1-05

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction on Patent No.: 6877636
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~~ South Tower 9A22
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.

Check Ref.

E. Gray

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:

Michael J. Mar

3754

SPE

Art Unit

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 6,877,636 B2

DATED : April 12, 2005

INVENTOR(S) : Speckhart et al.

Page 2 of 2

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

COVER PAGE cont.

6,216,925 * 4/2001 Garon.....222/645--;

After U.S. PATENT DOCUMENTS, please add the following:

-FOREIGN PATENT DOCUMENTS

GB 2 153 680 A 8/1985--; and

In the Abstract, at line 6, between "determined" and "the", please insert --and--.

*Correction
approved.
FPO 8/11/05*

MAILING ADDRESS OF SENDER:

Taylor & Aust, P.C.
P.O. Box 560
Avilla, IN 46710

PATENT NO. 6,877,636 B2

No. of additional copies

➔ 1

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

NOV 21 2005



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

Mail Date: 04/26/2010

Applicant	: Kishore Tipirneni	: DECISION ON REQUEST FOR
Patent Number	: 7591823	: RECALCULATION OF PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/779,892	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2004	: 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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FROM DIRECTORS OFFICE

SEP 22 2005

TECHNOLOGY CENTER 3600

J. David Wharton
Stinson Morrison Hecker LLP
ATTN: Patent Group
1201 Walnut Street, Suite 2800
Kansas City, MO 64106-2150

In re Application of : DECISION ON PETITION
William C. Cortner Jr. : TO WITHDRAW THE
Application No. 10/779,916 : HOLDING OF
Filed: February 17, 2004 : ABANDONMENT

For: INSECTICIDE APPLICATOR AND METHOD FOR LIVESTOCK

This is a decision on applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on June 17, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action (non-final rejection) mailed to applicant on September 13, 2004. A Notice of Abandonment was mailed on May 17, 2005.

Applicant's petition indicates that the Office action was never received.

There is a strong presumption that the Office communication, properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating that the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

- (3) 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.

The docket records indicated above must include **a copy of the list of all responses in the practitioner's office to which the action was properly sent with the due date at and around March 13, 2005.** See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

Practitioner submits a statement that the above-noted Office action was not received. Practitioner also attests to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Applicant's petition provides a copy of a docket record showing where such action would have been entered had it been received.

The petitioner has failed to comply with requirement (3) indicated above. Petitioner has not provided a complete docket record with a copy of the list of all responses in the practitioner's office to which the action was sent with the due date at and around March 13, 2005.

Petitioner's evidence of non-receipt of the Office action mailed May 17, 2005 is insufficient to withdraw the holding of abandonment, and 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 1.181." Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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

KJD/mng: 8/10/05



STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY MO 64106-2150

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DEC 19 2005

OFFICE OF PETITIONS

In re Application of :
William C. Cortner, Jr. : DECISION ON PETITION TO
Application No. 10/779,916 : WITHDRAW HOLDING OF
Filed: 17 February, 2004 : ABANDONMENT
Attorney Docket No. 506474-0008 :

This is a decision on the renewed petition filed on 14 October, 2005, 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 13 September, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 17 May, 2005. The petition filed on 17 June, 2005, was dismissed on 22 September, 2005.

Petitioner asserts that the Office action mailed on 13 September, 2004, was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action 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 action was

not received. 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 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 final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the final Office action 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 final Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted verified statements from the practitioner, J. David Wharton, stating that the Office communication was not received by counsel, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Copies of docket records for the above-identified application where the non-received Office action would have been entered had it been received and docketed were attached.

The petitioner has made a sufficient showing of nonreceipt of the non-final Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is GRANTED.

The application file is being referred to Technology Center 3600 technical support staff for re mailing of the non-final Office action. The period for reply will be reset from the mailing date thereof.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



Larson and Larson
11199 69th Street North
Largo, FL 33773

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SEP 06 2006

In re Application of
Donald E. Woollen Jr.
Application No. 10/779,923
Filed: February 17, 2004
Attorney Docket No. 487.5

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OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 31, 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 Herbert W. Larson on behalf of all attorneys of record who are associated with Customer No. 22497.

All attorneys/agents associated with the Customer NO. 22497 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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



David Buccel
Petitions Examiner
Office of Petitions

cc: Donald E. Woollen, Jr.
12141-76th Street
Largo, FL 33773

cc: Aqua Technologies, Inc.
Attn : Williams L. Clements
960 Hastings Horseshoe
Powell, WY 82435



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APR 15 2005

Technology Center 2100

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

In re Application of: SAUVE ET AL.
Application No. 10/779,925
Filed: FEBRUARY 17, 2004
For: USER INTERFACE ACCORDED TO
TIERED OBJECT-RELATED TRUST
DECISIONS

DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P. §708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the petition filed January 10, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

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

The petition filed January 10, 2005 fails to adequately meet requirements (b) and (e) of the criteria set forth above. As per requirement (b), the has omitted the statement that "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". With respect to requirement (e), applicant must point out how the claimed subject matter is patentable over the references. The application has independent claims 1, 5, 11, and 21. The statement of the features missing from the cited references should not reference the entire claim. The applicant provides no discussion of the specific features missing from each reference and merely list all of the claims and provides no indication of which specific feature is not taught by each of the references deemed to be most closely related. The applicant should also note that the present application is currently classified in Class/Subclass 715/808 and no search has been made in that area (directed toward the invention, see requirement (c) above).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable over the references**. Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**; since, all of the requirements for special status under MPEP § 708.02(VIII) have not been met.

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

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



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

JC



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MICROSOFT CORPORATION
ATTN: PATENT GROUP DOCKETING DEPT.
ONE MICROSOFT WAY
REDMON, WA 98052-6399

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SEP 14 2005

Technology Center 2100

In re Application of: Sauve, et al.
Application No. 10/779,925
Filed: February 17, 2004
For: USER INTERFACE ACCORDED TO
TIERED OBJECT-RELATED TRUST
DECISIONS

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

This is a decision on the Request for Reconsideration filed June 17, 2005 on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, originally filed on January 10, 2005 and dismissed on April 15, 2005.

The Petition is **GRANTED**.

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

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

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petitioner is reminded of the proper content of an Information Disclosure Statement (IDS), as set forth in M.P.E.P. 609 and 37 CFR §1.97 & §1.98, such IDS "shall include list of all patents, publications, applications, or other information submitted for consideration by the Office". Presently, a listing of those references cited within the instant petition, although discussed in detail in the petition and indicated to have been submitted, have not been listed on an attached PTO form 1449 or PTO/SB/08 (or such listing has not reached the file). To ensure proper consideration, a listing of these references should be provided. Specifically, in the instant application, applicant cites the following references: (i.e. US# 6,605,102, US# 2004/0083474, Mozilla, Opera, Google, Microsoft (3)) as most closely related. However fails to provide a listing for Examiner's consideration.

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

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



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
703-308-0885

AWK



George D. Morgan
Lowenstein Sandler PC
65 Livingston Avenue
Roseland, NJ 07068

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DEC 21 2007

TECHNOLOGY CENTER 2100

In re Application of:
Simon Bowie-Britton
Application No. 10/779,934
Filed: February 17, 2004
For: METHODS AND SYSTEMS FOR
MANAGING SUCCESSFUL
COMPLETION OF A NETWORK OF
PROCESSES

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on 17 February 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 **DISMISSED**.

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

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

- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR § 1.17(h);
- (B) Presents all claims are 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 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.

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 Special Program Examiner.

Applicant's submission filed 17 February 2004 fails to adequately meet the requirements of section (e) as set forth above. Responsive to requirement (e), applicant must provide a "detailed discussion of the references, which discussion points out, with the particularly requirement by 37 CFR § 1.111(b) and (c), how the claimed subject matter is patentable over the references." Petitioner should ensure that the above discussion is directed to how the language of each of the **independent claims** is specifically distinguishable and patentable from the references provided pursuant to requirement (e) supra.

Accordingly, the petition is **DISMISSED**.

Any request for reconsideration or a renewed petition to make special to perfect the aforementioned defects must be filed within two months of the mailing date of this decision.

_____/Gail Hayes/_____
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3591



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Commissioner for Patents
United States Patent and Trademark Office
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JUN 14 2005

WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS IN 46204-5137

In re Application of :
Elwood Jesse Bill Simpson :
Serial No.: 10/779,937 : DECISION ON PETITION
Filed: February 17, 2004 :
For: Protective Helmet with Integral Air :
Supply :

This is in response to the petition applicant filed on January 3, 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 (751) 273-0275.


Frederick R. Schmidt, Director
Technology Center 3700



RENNER, OTTO, BOISSELLE & SKLAR
19TH FLOOR
1621 EUCLID AVE.
CLEVELAND OH 44115

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NOV 04 2005

OFFICE OF PETITIONS

In re Application of :
Michal Aaron Hastings et al. :
Application No. 10/779,942 :
Filed: February 17, 2004 :
Attorney Docket No. FUELP0242US :

ON PETITION

This is a decision on the petition filed August 10, 2005 under 37 CFR 1.137(b),¹ to revive the above-identified application.

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

This application became abandoned June 29, 2005 for failure to timely pay the issue fee on or before June 28, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The issue fee, petition fee and publication fee have been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Balf
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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



**PATENT LAW GROUP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134**

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OFFICE OF PETITIONS

In re Application of :
Yee-Chung Fu :
Application No. 10/779,952 :
Filed: February 13, 2004 :
Attorney Docket No. ANS-P105 :

ON PETITION

This is a decision on the petition filed October 3, 2005, under 37 CFR 1.137(b), to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice mailed August 18, 2005, which set a period for reply of one (1) month. Accordingly, the above-identified application became abandoned on September 19, 2005.

As to the petition under 37 CFR 1.313(c)(2):

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

Petitioner is advised that the issue fee paid on July 21, 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

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

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

This matter is being forwarded to Technology Center AU 2815 for processing of 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

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

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

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-

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

CBN/eme



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

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JUL 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,057,733 :
Issue Date: June 6, 2006 :
Application No. 10/779,959 : DECISION ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. :
03142-P0067A WWW/DC :

This is a decision on the petition under 37 CFR 3.81(b), filed December 22, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.


Frances Hicks
Petitions Examiner
Office of Petitions



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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

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JUN 04 2008

OFFICE OF PETITIONS

In re Application of :
Lisa Starr :
Application No. 10/779,989 : ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. STRR/0004.C1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on July 2, 2007, to revive the above-identified application.

The above application became abandoned for failure to file a reply to the final Office action mailed November 17, 2006. A Notice of Abandonment was mailed on June 1, 2007.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Jason C. Huang 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.

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) with the \$395 filing fee and an amendment; (2) the petition fee of \$750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The application file is being referred to Technology Center Art Unit 3724, 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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Terence P. O'Brien
Wilson Sporting Goods Co.
8700 W. Bryn Mawr Avenue
Chicago IL 60631

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DEC 05 2007

OFFICE OF PETITIONS

In re Application of :
SIMONUTTI et al. :
Application No. 10/780,005 : DECISION ON PETITION
Filed: 02/17/2004 :
Attorney Docket No. WG0057H :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed December 13, 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 March 14, 2007. A Notice of Abandonment was mailed on July 2, 2007.

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

The payment of the \$1,500.00 fee for filing a petition under 37 CFR 1.137(b) did not accompany the present petition. Accordingly, the Office will charge the \$1,500.00 fee to the Deposit Account, as previously authorized.

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

This application is being referred to Technology Center AU 3711 for appropriate action by the Examiner in the normal course of business on the reply received September 10, 2007.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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FROM DIRECTORS OFFICE**

AUG 20 2004

TECHNOLOGY CENTER 3600

CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI, MI 48375

In re application of : **DECISION ON PETITION**
Brian M. Groth et al. : **TO MAKE SPECIAL**
Application No. 10/780,006 : **(APPLICANT'S AGE)**
Filed: February 17, 2004 :
For: GUTTER LINING METHOD AND INSERT APPARATUS INCORPORATING
POROUS NON-WOVEN FIBER MATTING

This is a decision on the petition submitted on July 19, 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. Groth 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.

Best Available Copy

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: 8/12/04



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BRIDGEWATER NJ 08807

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DEC 09 2008

OFFICE OF PETITIONS

In re Application of :
BORDON-PALLIER et al. : DECISION ON APPLICATION
Application No. 10/780,018 : FOR PATENT TERM ADJUSTMENT
Filed: February 17, 2004 :
Docket No. FRA V2003/0006 US NP :

This is a decision on the "Combined Request for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance (37 C.F.R. § 1.705) and Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 for the Adjustment (37 C.F.R. § 1.705(b)(2)(i) and (ii))" filed September 10, 2008. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be set at 790 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **790 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 30, 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 794 days. Applicants timely filed the instant application for patent term adjustment¹.

Applicants dispute the reduction of 369 days for applicant delay in responding to the Notice to File Missing Parts of Nonprovisional Application mailed May 12, 2004. Specifically, applicants assert that they filed a complete and proper response to the Notice to File Missing Parts of Nonprovisional Application on August 16, 2004 (not August 16, 2005).

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history reveals that the Office incorrectly entered the date of receipt of the reply to the Notice to File Missing Parts of Nonprovisional Application as August 16, 2005, instead of August 16, 2004.² Therefore, the date of receipt of the response on August 16, 2004, should be properly used for purposes of calculating compliance with 37 CFR 1.704(b).

In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should be reduced by 4 days (not 369 days), the number of days in the period beginning on the day after the date that is three months after the date of mailing of Notice to File Missing Parts of Nonprovisional Application, August 13, 2004, and ending on the date the reply was filed, August 16, 2004. Accordingly, the period of reduction of 369 days is being removed and a period of reduction of 4 days is being entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 790 days (794 days of Office delay - 4 days of applicant delay).

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

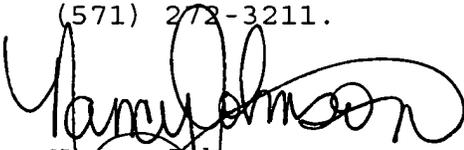
¹ PALM Records indicate that the Issue Fee payment was received on September 15, 2008.

² The response located in the Image File Wrapper for this application contains a USPTO date-stamp of August 16, 2004.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

PALM INTRANET

PTA Calculations for Application: 10/780018			
Application Filing Date:	02/17/2004	PTO Delay (PTO):	794
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	369
Post-Issue Petitions:	0	Total PTA (days):	790
PTO Delay Adjustment:	365		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
72	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4	
71	12/05/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	369		
60	06/30/2008	MAIL NOTICE OF ALLOWANCE			
59	06/26/2008	ISSUE REVISION COMPLETED			
58	06/26/2008	DOCUMENT VERIFICATION			
57	06/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	06/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
52	06/03/2008	NOTICE OF ALLOWABILITY			
51	05/28/2008	DATE FORWARDED TO EXAMINER			
50	05/19/2008	AMENDMENT AFTER FINAL REJECTION			
49	03/22/2008	ELECTRONIC REVIEW			
48	03/21/2008	EMAIL NOTIFICATION			
47	03/19/2008	MAIL FINAL REJECTION (PTOL - 326)			
46	03/10/2008	FINAL REJECTION			
45	02/12/2008	DATE FORWARDED TO EXAMINER			
44	01/17/2008	RESPONSE AFTER NON-FINAL ACTION			
43	10/24/2007	ELECTRONIC REVIEW			
42	10/23/2007	EMAIL NOTIFICATION			
41	10/23/2007	MAIL NON-FINAL REJECTION			
40	10/15/2007	NON-FINAL REJECTION			
38	08/16/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	09/09/2007	DATE FORWARDED TO EXAMINER			
35	08/31/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
34	08/31/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			

33	08/09/2007	PG-PUB ISSUE NOTIFICATION			
32	07/24/2007	CASE DOCKETED TO EXAMINER IN GAU			
29	06/22/2007	ELECTRONIC REVIEW			
28	06/21/2007	EMAIL NOTIFICATION			
27	06/20/2007	MAIL RESTRICTION REQUIREMENT	794		-1
26	06/11/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
25	06/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	06/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
23	08/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	05/24/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	08/16/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/17/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
19	05/15/2007	APPLICATION DISPATCHED FROM OIPE			
18	05/03/2007	SENT TO CLASSIFICATION CONTRACTOR			
17	05/03/2007	APPLICATION IS NOW COMPLETE			
16	08/16/2005	ADDITIONAL APPLICATION FILING FEES		369	5
15	02/17/2004	CLAIM PRELIMINARY AMENDMENT			
13	08/16/2005	TRANSLATION OF CLAIMS INTO ENGLISH			
10	08/16/2005	TRANSLATION OF SPECIFICATION INTO ENGLISH			
9	05/18/2004	ADDITIONAL APPLICATION FILING FEES			
8	05/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	05/18/2004	TRANSLATION OF CLAIMS INTO ENGLISH			
6	05/18/2004	TRANSLATION OF SPECIFICATION INTO ENGLISH			
5	05/12/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
4	04/15/2004	CLEARED BY L&R (LARS)			
3	03/23/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	03/07/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/17/2004	INITIAL EXAM TEAM NN			

Search Another: Application#

Search



**ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON, VA 20191**

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OFFICE OF PETITIONS

In re Application of :
Nan-Sung Cho et al :
Application No. 10/780,042 : DECISION ON PETITION
Filed: February 17, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2791-008 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 13, 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/KR02/01514 filed August 8, 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 inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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 1774 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.



Karen Creasy
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
10/780,042	02/17/2004	1774	493	2791-008	6	16	4

22208
 ROBERTS, MARDULA & WERTHEIM, LLC
 11800 SUNRISE VALLEY DRIVE
 SUITE 1000
 RESTON, VA 20191

CONFIRMATION NO. 9261
CORRECTED FILING RECEIPT
OC000000022721430
 OC000000022721430

Date Mailed: 03/02/2007

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)

Nam-Sung Cho, Goyang-city, KOREA, REPUBLIC OF;
 Do-Hoon Hwang, Gumi-city, KOREA, REPUBLIC OF;
 Hong-Ku Shim, Daejeon, KOREA, REPUBLIC OF;
 Jong-Chul Kim, Daejeon, KOREA, REPUBLIC OF;

Power of Attorney:

John Abokhair--30537
 Jon Roberts--31293
 Kevin Pontius--37512
 David Long--41948
 Christopher Kilner--45381

Timothy Graves--45940
 Janeen Vilven--47156

Domestic Priority data as claimed by applicant

This application is a CON of PCT/KR02/01514 08/08/2002

Foreign Applications

REPUBLIC OF KOREA 2001-0049386 08/16/2001

If Required, Foreign Filing License Granted: 05/19/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/780,042**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Light-emitting fluorene-based copolymers, EL devices comprising the same and method of synthesis thereof

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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



DAVID K. PURKS
MYERS BIGEL SIBLEY & SAJOVEC
POST OFFICE BOX 37428
RALEIGH NC 27627

COPY MAILED

JUL 01 2004

OFFICE OF PETITIONS

In re Application of :
Seong-Jin Jang :
Application No. 10/780,057 :
Filed: February 17, 2004 : **DECISION DISMISSING PETITION**
Attorney Docket No. 5649-1204 :

This is a decision on the petition filed June 1, 2004 under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of February 16, 2004, instead of the presently accorded filing date of February 17, 2004.

Petitioners request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on Monday, February 16, 2004, pursuant to the requirements of 37 CFR 1.10. Petitioner submitted, *inter alia*, a copy of the application transmittal sheet and a copy of the Express Mail Pick Up Service Statement, both bearing "Express Mail" tracking number EV381446125US but petitioner has not submitted a copy of the Express Mail mailing label as required for a petition under 37 CFR 1.10(c).

Paragraph (a) of 37 CFR 1.10 states that:

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

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to

¹ See 37 CFR 1.6(a).

the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

A grantable petition under 37 CFR 1.10(c) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service **prior to the last scheduled pickup for that day**. In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

At the outset, it is noted that petitioners have not provided a true copy of the "Express Mail" customer label nor explained why a copy of the Express Mail customer label showing the "date in" has not been provided. Any renewed petition must be accompanied by a copy of the Express Mail label showing the "date in" as completed by the USPS.

The petition filed on June 1, 2004, is not accompanied by the corroborating evidence required by the rule. The circumstances of this case instead lead to the conclusion that petitioner deposited the correspondence in an Express Mail drop box rather than directly with USPS employees, on a day when the post office was closed, Monday, February 16, 2004 which was President's Day.

The general rule is that there is no mail pickup from an Express Mail box or otherwise on a day when the federal government is closed for a holiday. Correspondence should be deposited directly 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.²

Petitioners obviously have a corporate account and therefor could easily show that the post office box used, had a pick-up on the holiday, even though the post-office was closed, the schedule of pick-ups for that day, and that the package was deposited prior to the last pick-up for Monday, February 16, 2004.

Accordingly, the petition is **DISMISSED**.

A fee in the amount of \$130.00 is due for this petition and has been charged to deposit account no. 50-0220.

The application has been accorded a filing date of February 17, 2004 and no evidence has been submitted to accord any other filing date other than February 17, 2004. This application is being forwarded to Technology Center 2819 to be examined in due course.

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

A handwritten signature in cursive script that reads "Patricia Faison Ball". The signature is written in black ink and is positioned above the typed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

²37 CFR 1.10(b).

Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 10/19/05



UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

NOV 09 2005

TECHNOLOGY CENTER 3800

MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD
SUITE 1150
IRVINE, CA 92612

In re application of	:	DECISION ON PETITION
Calvin Lam	:	TO MAKE SPECIAL
Application No. 10/780,061	:	(ACCELERATED
Filed: February 17, 2004	:	EXAMINATION)
For: DECORATIVE DEVICE COMPRISED OF	:	
MODULAR INTERCHANGEABLE	:	
COMPONENTS	:	

This is in response to the renewed petition filed on October 27, 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).

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
571-272-6587

KJD/dew: 11/03/05

SPE Maung

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

10/780068

DATE : 3/7/06

Paper No.: _____

TO SPE OF : ART UNIT 2151

SUBJECT : Request for Certificate of Correction on Patent No.: 6986534

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

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

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

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch

Tel. No. 703-305-8309

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

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

No new matter has been introduced and the scope of the claims has not been changed.

The priority data, on the certificate of correction, is correct.



2151

SPE

Art Unit

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 6,986,534
DATED : January 17, 2006
INVENTOR(S) : Fisher

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:

Please insert the following on the cover page of the issued patent:

--(30) Foreign Application Priority Data
Mar. 2, 2001 (GB)0105120.0--

MAILING ADDRESS OF SENDER:

*Carlson, Gaskey & Olds, P.C.
400 West Maple Road, Suite 350
Birmingham, Michigan 48009
(248) 988-8360*

PATENT NO. 6,986,534

No. of additional copies



This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

FEB 23 2006



CofA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application No.: 10/780,068
Filing Date: 02/17/2004
Applicant: Fisher
Attorney Docket: 60130-2039
For: DOOR LATCH MECHANISM

Patent No.: 6,986,534
Issue Date: 01/17/2006
Group Unit: 2151
Examiner: Walsh, John B.

Certificate
FEB 22 2006
of Correction

COMMISSIONER OF PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Dear Sir:

Enclosed is a Certificate of Correction for the above-identified US Patent.

The "Foreign Application Priority Data" section was omitted from the cover page of the issued patent. Since the omission occurred at the United States Patent & Trademark Office, consideration is respectfully requested.

ok to
Enter
JW
4/25/06

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

Karin Butcko

Karin H. Butcko, Reg. No. 45,864
400 West Maple Road, Suite 350
Birmingham, Michigan 48304
(248) 988-8360

Date: February 13, 2006

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 13, 2006.

Lindsey Fortney
Lindsey Fortney

FEB 23 2006



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.
10/780,072	02/17/2004	Michael L. O'Banion	0275Y-625COB	9473

27572 7590 10/28/2004

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

MITCHELL, KATHERINE W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 10/28/2004

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



UNITED STATES PATENT AND TRADEMARK OFFICE

KB

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

Jeffrey Urian
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re application of	:
O'Banion et al.	:
Application No.: 10/780072	:DECISION ON PETITION
Date of Filing: February 17, 2004	:FOR CORRECTION OF
For: METHOD AND APPARATUS FOR	:INVENTORSHIP OF PATENT
FASTENING STEEL FRAMING WITH	:
A HARPOON NAIL	:

This is in response to applicant's Petition for Correction of Inventorship of Patent under 37 CFR 1.48(b) which was filed in the Patent and Trademark Office on August 31, 2004.

The petition is **GRANTED**.

The applicant has requested deleting inventors to the above-filed application, because the inventor's invention is no longer being claimed in the application. In accordance with 37 CFR 1.48(b), the applicant has submitted a petition, which contains the appropriate fee, and a proper statement by applicant's representative. It is noted that a preliminary amendment to this application cancelled claims 1-84, presumably drawn to the inventive contribution from Mr. O'Banion, Mr. Puzio, Mr. Berry and Mr. Judge.

Telephone inquires relative to this decision should be directed to Supervisory Primary Examiner J.J. Swann at (703) 306-4115.



 J.J. Swann, Supervisory Primary Examiner
 Patent Technology Center 3600
 (703) 306-4115
 Facsimile No.: (703) 306-4598



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.
10/780,082	02/17/2004	Michael L. O'Banion	0275Y-625COD	9514

27572 7590 12/14/2004
HARNES, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

MITCHELL, KATHERINE W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 12/14/2004

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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Jeffrey Urian
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re application of	:
O'Banion et al.	:
Application No.: 10/780082	:DECISION ON PETITION
Date of Filing: February 17, 2004	:FOR CORRECTION OF
For: METHOD AND APPARATUS FOR	:INVENTORSHIP OF PATENT
FASTENING STEEL FRAMING WITH	:
SELF-LOCKING NAILS	:

This is in response to applicant's Petition for Correction of Inventorship of Patent under 37 CFR 1.48(b) which was filed in the Patent and Trademark Office on August 31, 2004.

The petition is **GRANTED**.

The applicant has requested deleting inventors to the above-filed application, because the inventor's invention is no longer being claimed in the application. In accordance with 37 CFR 1.48(b), the applicant has submitted a petition, which contains the appropriate fee, and a proper statement by applicant's representative. It is noted that a preliminary amendment to his application cancelled claims 1-84, presumably drawn to the inventive contribution from Mr. O'Banion, Mr. Moores, Jr., Mr. Berry and Mr. Judge.

Telephone inquires relative to this decision should be directed to Examiner Katherine Mitchell at 703-305-6713.

ROBERT J. SANDY
PRIMARY EXAMINER



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

Connors Associates
1600 Dove St., Suite 220
Newport Beach, CA 92660

DEC 1 2005

In re Application of:
Willis et al.
Serial No.: 10/780,099
Filed: February 17, 2004
Attorney Docket No.: 9425a

DECISION ON REQUEST TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 28, 2005.

The request is **DISMISSED** as being moot.

The attorney/agent requesting withdrawal is not of record in the above-identified application. As such, the request must be dismissed. This application is abandoned.

All future communications from the Office will be directed to the address above until otherwise notified. There are no attorneys of record in this application.

Since the person signing the request to withdraw from record is not an attorney/agent of record, he has no authority to change the correspondence address. Accordingly all future correspondence will continued to be directed to the address listed above until a change of address signed by both inventors is filed. However, as a one-time courtesy, a copy of this decision is being sent to both inventors.

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: Lee Willis
20792 Sparkman Lane
Huntington Beach, CA 92646

cc: Martin Barteske
20902 Brookhurst St.
204
Huntington Beach, CA 92646



**TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834**

**COPY MAILED
DEC 08 2008**

In re Application of :
DOW, Steven W. et al. :
Application No. 10/780,114 :
Filed: February 17, 2004 :
Attorney Docket No. 021819-000130US :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 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 Jenkins on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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


Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **STEVEN W. DOW
8 BLUE GROUSE RIDGE RD.
LITTLETON CO 80127**

cc: **NATIONAL JEWISH MEDICAL AND RESEARCH CENTER
1400 JACKSON STREET
DENVER CO 80206**



MICHAEL R. HENSON & ASSOCIATES, LLC
5613 DTC PARKWAY
SUITE 240
GREENWOOD VILLAGE CO 80111

COPY MAILED
JUL 31 2008

In re Application of :
Christopher E. FISCHER et al. :
Application No. 10/780,122 : DECISION ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. 2034 :

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed July 24, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 25, 2007. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, (2) the petition fee of \$770, and (3) a proper statement of unintentional delay. Accordingly, the reply to the notification of Non-Compliant Appeal Brief 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 1791 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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

Docket Number (Optional)

First named inventor: Christopher E. Fischer

Application No.: 10/780,122

Art Unit: 1791

Filed: February 17, 2004

Examiner: Mazumdar, Sonya

Title: DECORATIVE TIRE COVER AND TRANSFER PATTERN AND METHOD FOR USE THEREWITH

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Appeal Brief Replacement Section (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.

[Page 1 of 2]

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

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

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

/John Wray Carpenter/

Signature

April 24, 2008

Date

John W. Carpenter

Typed or printed name

57,830

Registration Number, if applicable

5613 DTC Parkway, Suite 240

Address

303.220.9922

Telephone Number

Greenwood Village, CO 80111

Address

Enclosures: Fee Payment Reply Terminal Disclaimer Form Additional sheets containing statements establishing unintentional delay Other: _____**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate



Fee History Query

Revenue Accounting and Management

Name/Number: 10780122

Total Records Found: 14

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/24/2008	00014019	<u>4</u>	<u>2453</u>	\$770.00	04/24/2008	ET
04/12/2007	00000023	<u>1</u>	<u>2254</u>	\$795.00	04/12/2007	CK
04/12/2007	00000024	<u>1</u>	<u>2402</u>	\$250.00	04/12/2007	CK
10/11/2006	00000007	<u>1</u>	<u>2253</u>	\$510.00	10/10/2006	CK
10/11/2006	00000008	<u>1</u>	<u>2401</u>	\$250.00	10/10/2006	CK
03/06/2006	00000042	<u>1</u>	<u>2202</u>	\$25.00	03/03/2006	CK
03/06/2006	00000043	<u>1</u>	<u>2201</u>	\$100.00	03/03/2006	CK
03/06/2006	00000041	<u>1</u>	<u>2251</u>	\$60.00	03/03/2006	CK
08/22/2005	00000001	<u>1</u>	<u>2251</u>	\$60.00	08/19/2005	CK
02/03/2005	00000114	<u>4</u>	<u>8021</u>	\$40.00	02/03/2005	CC
07/02/2004	00000006	<u>1</u>	<u>2001</u>	\$385.00	06/30/2004	CK
07/02/2004	00000007	<u>1</u>	<u>2201</u>	\$86.00	06/30/2004	CK
07/02/2004	00000008	<u>1</u>	<u>2202</u>	\$198.00	06/30/2004	CK
07/02/2004	00000009	<u>1</u>	<u>2051</u>	\$65.00	06/30/2004	CK



STRAUB & POKOTYLO
620 TINTON AVENUE
BLDG. B, 2ND FLOOR
TINTON FALLS NJ 07724

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of
Henry Bertoni et al.
Application No. 10/780,139
Filed: February 17, 2004
Attorney Docket No. Poly-31

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)¹, filed May 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on February 3, 2006, for failure to timely file a reply to the final Office action mailed November 2, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed May 15, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$750.00; and (3) an adequate statement of unintentional delay.

The Examiner has determined that the amendment filed with the present petition is

¹Effective 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.

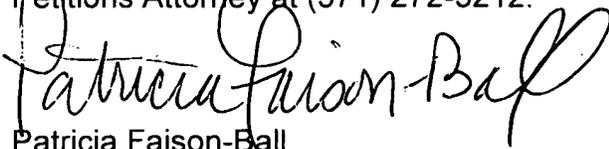
(2) the petition fee as set forth in 37 CFR 1.17(m);

(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 require additional information where there is a question whether the delay was unintentional; and

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

acceptable. The matter therefore is being referred to Technology Center 3662.

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

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive style with a large, looped initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

GARLICK HARRISON & MARKISON
P.O. BOX 160727
AUSTIN TX 78716-0727

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Richard Bye. : DECISION ON PETITION
Application No. 10/780,160 :
Filed: February 17, 2004 :
Attorney Docket No. BP2961 :

This is in response to the RESUBMISSION OF NOTICE OF APPEAL filed January 10, 2007. This paper is being treated as a petition to withdraw holding of abandonment.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed July 3, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective October 4, 2006. A courtesy Notice of Abandonment was mailed on January 9, 2007.

Petitioner resubmits the Notice of Appeal and states that the Notice of Appeal was previously submitted via First Class Mail and dated January 3, 2007.

Consideration of petitioner's evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of January 8, 2007. The response includes an authorization to charge a three-month extension of time and is made timely by virtue of the certificate of mailing dated January 3, 2007. The three-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account.

Accordingly, the Notice of Abandonment mailed January 9, 2007 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

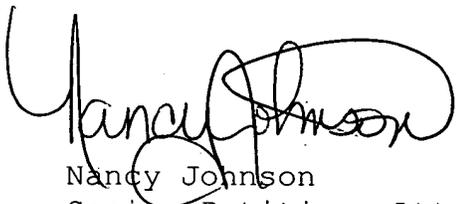
The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Please be advised that the two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the mail date of this decision.

Technology Center AU 2617 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, to process the Notice of Appeal resubmitted on petition filed January 10, 2007, and for the examiner to await filing of applicant's Appeal Brief.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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)
7023267	2006-04-04	10780188	2004-02-17	

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

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 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

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.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Kelly Mekechuk/		Date (YYYY-MM-DD) 2010-05-19
Name	Kelly Mekechuk, Secretary, VP Technology and IP		
Enter Reel and Frame Number			<input type="button" value="Remove"/>
Reel Number	015004	Frame Number	0126
Enter Reel and Frame Number			<input type="button" value="Remove"/>
Reel Number	017656	Frame Number	0147
Enter Reel and Frame Number			<input type="button" value="Remove"/>
Reel Number	022668	Frame Number	0637
Click ADD for additional Reel Number and Frame Number			<input type="button" value="Add"/>
<p>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.</p>			

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. 7023267 :
Issue Date: April 4,2006 :
Application No. 10780188 :DECISION GRANTING PETITION
Filed: February 17,2004 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 34-002 :

This is a decision on the electronic petition, filed May 19,2010 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 19,2010 .
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

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 10/780203 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.

A handwritten signature in cursive script that reads "Kaletus King".

Signature of Reviewer, Office of Pre-Grant Publication



**MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903**

COPY MAILED

JAN 24 2006

In re Application of :
Washington et al. :
Application No. 10/780,238 :
Filed: February 17, 2004 :
Attorney Docket No. 60120.0001US01 :

**OFFICE OF PETITIONS
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 12, 2005.

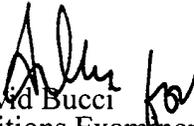
The request is **APPROVED**.

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 Joseph Bennett Paris on behalf of all attorneys of record who are associated with Customer Number 23552.

All attorneys/agents associated with the Customer Number 23552 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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


David Bucci
Petitions Examiner
Office of Petitions

Cc: ANDREW WASHINGTON
4865 RUSHING ROCK WAY, NE
MARIETTA, GA 30066



JGJr: 09-04

Paper No: ___

BRISTOL-MYERS
SQUIBB COMPANY
100 HEADQUARTERS PARK DRIVE
SKILLMAN NJ 08558

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SEP 13 2004
OFFICE OF PETITIONS

In re Application of :
Falconer. :
Application No. 10/780,240 : ON PETITION
Filed: 17 February, 2004 :
Attorney Docket No. C-314 DIV :

This is a decision on the petition filed on 6 August, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 17 February, 2004, for the application, rather than no filing date as presently accorded.

For the reasons set forth below, the petition is **GRANTED in part** and **DISMISSED in part**.

BACKGROUND

This application was deposited on 17 February, 2004.

On 15 June, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application (the 15 June Notice) indicated that no filing date had been accorded because the application had been filed without drawings as required under 35 U.S.C. §113 (first sentence). That Notice reminded Petitioner that any filing date accorded would be “the date of receipt of” the drawing(s) if submitted.

NOTE: A review of the Application as deposited indicate that Petitioner's Claim 37 appears to contain a methods/process claim.

On 6 August, 2004, Petitioner filed a Response to the 15 June Notice, and included therewith a copy of drawings (sheets 1 - 9, Figs, 1 - 12e).

Petitioner indicates that this application is a divisional of Application No. 09/370,305 (filed 9 August, 1999), which has since issued as Patent No. 6,709,421B1 on 23 March, 2004, and that this application contained no new matter from the parent.

Analysis

A search of the official file reveals that on 17 February, 2004, Petitioner deposited the instant application, and stated therein:

- at item 4 on the Transmittal Sheet: “[t]he entire disclosure of the prior application . . . is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein . . .”; and
- at the bottom of that Transmittal Sheet: “[t]he right to elect an invention or species that is different from that elected in parent Application No. 09/370,305 in the event of a restriction or election of species requirement that is identical or substantially similar to that made in said parent application is hereby reserved.”

While Petitioner does not allege that the drawings found to be missing from the application are not necessary for the understanding of the invention, it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for the understanding of the invention under 35 U.S.C. §113 (first sentence). (See: MPEP §601.01¹)

¹ The commentary at MPEP §601.01 provides in pertinent part:

601.01(f) Applications Filed Without Drawings

35 U.S.C. 111(a)(2)(B) and 35 U.S.C. 111(b)(1)(B) each provide, in part, that an “application shall include . . . a drawing as prescribed by section 113 of this title” and 35 U.S.C. 111(a)(4) and 35 U.S.C. 111(b)(4) each provide, in part, that the “filing date . . . shall be the date on which . . . any required drawing are received in the Patent and Trademark Office.” 35 U.S.C. 113 (first sentence) in turn provides that an “applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented.

Applications filed without drawings are initially inspected to determine whether a drawing is referred to in the specification, and if not, whether a drawing is necessary for the understanding of the invention. 35 U.S.C. 113 (first sentence).

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). The same practice has been followed in composition applications.

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject

This application contains at least one method claim, as noted above. Therefore, the application should have been treated as an application filed without the drawing figure(s) referred to in the specification as discussed in MPEP §601.01(g).²

It appears that a "Notice of Omitted Items" should have been mailed instead of the "Notice of Incomplete Nonprovisional Application."

Therefore, the 15 June, 2004, "Notice of Incomplete Nonprovisional Application" hereby is **vacated**.

CONCLUSION

The petition is:

- **granted in part**, to the extent that the application will be accorded the filing date of 17 February, 2003, without the sheets 1 - 9 of drawings containing Figs. 1 - 12e as part of the original disclosure of the application; and
- **dismissed in part** as to the request for the 17 February, 2004, filing date for sheets 1 - 9 of drawings containing Figs. 1 - 12e.

matter discussed above for which a drawing is usually not considered essential for a filing date, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination, so long as the application contains something that can be construed as a written description. A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description. In a situation in which the appropriate Technology Center (TC) determines that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

² The commentary at MPEP §601.01 provides in pertinent part:

601.01(g) Applications Filed Without All Figures of Drawings

The Office of Initial Patent Examination (OIPE) reviews application papers to determine whether all of the figures of the drawings that are mentioned in the specification are present in the application. If the application is filed without all of the drawing figure(s) referred to in the specification, and the application contains something that can be construed as a written description, at least one drawing, if necessary under 35 U.S.C. 113 (first sentence), and, in a nonprovisional application, at least one claim, OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of drawings described in the specification. The mailing of a "Notice of Omitted Item(s)" will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP § 503)); or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the drawing(s) was in fact deposited in the USPTO with the application papers must, within 2 months from the date of the "Notice of Omitted Item(s)," file a petition under 37 C.F.R. 1.53(e) with the petition fee set forth in 37 C.F.R. 1.17(h), along with evidence of such deposit (37 C.F.R. 1.181(f)). The petition fee will be refunded if it is determined that the drawing(s) was in fact received by the USPTO with the application papers deposited on filing.

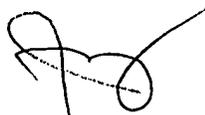
Because the omission of Fig. 1 and the petition as to its inclusion was not due to Office error, the petition fee is charged, as authorized, to Deposit Account 02-3869.

Petitioner asserts that the first paragraph of the specification states that the application is a continuation of Application No. Application No. 09/370,305, and pending as of the filing of the instant application), and that “. . . incorporated by reference”

This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).)³ As a matter of expediting prosecution, Petitioner may submit a copy of the parent application (Application Serial No. 09/370,305) with a preliminary amendment and seek entry of that amendment by the Examiner.

The application file is being released to the Office of Initial Patent Examination for further processing with a corrected filing date of 17 February, 2003, indicating in the Office records that “0” sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.



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

³ The commentary at MPEP §201.06(c) provides in pertinent part:

INCORPORATION BY REFERENCE

In a continuation or divisional application, the safe-guard (petition and fee under former 37 C.F.R. 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 C.F.R. 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a “true copy” of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are “hereby incorporated herein by reference.” The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (Emphasis supplied.).



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BRISTOL-MYERS SQUIBB COMPANY
100 HEADQUARTERS PARK DRIVE
SKILLMAN NJ 08558

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DEC 08 2006

OFFICE OF PETITIONS

In re Application of :
Malcolm I. Falconer :
Application No. 10/780,240 : DECISION GRANTING PETITION
Filed: February 17, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. C-314 DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of March 21, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.


Karen Creasy
Petitions Examiner
Office of Petitions



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HOWARD IP LAW GROUP
P.O. BOX 226
FORT WASHINGTON, PA 19034

COPY MAILED

JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
David Vilkomerson.	:	
Application No. 10/780,241	:	DECISION ON PETITION
Filed: February 17, 2004	:	TO WITHDRAW
Attorney Docket No. DVX-2-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 January 10, 2008 and February 29, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Howard IP Law Group has been revoked by the assignee of the patent application on May 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: THE PLEVY LAW FIRM
10 RUTGERS PLACE
TRENTON, NJ 08618



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Table with 8 columns: APPL NO., FILING OR 371 (c) DATE, ART UNIT, FIL FEE REC'D, ATTY. DOCKET NO, DRAWINGS, TOT CLMS, IND CLMS. Values: 10/780,244, 02/17/2004, 2811, 896, 5649-1191, 2, 27, 3

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

CONFIRMATION NO. 9666
CORRECTED FILING RECEIPT
OC000000012843146

Date Mailed: 06/02/2004

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

Applicant(s)

- Seong-Jun Heo, Residence Not Provided;
Sun-Pil Youn, Residence Not Provided;
Sung-Man Kim, Residence Not Provided;
Si-Young Choi, Residence Not Provided;
Gil-Heyun Choi, Residence Not Provided;
Ja-Hum Ku, Residence Not Provided;
Chang-Won Lee, Residence Not Provided;
Jong-Myeong Lee, Residence Not Provided;
Kwon-Sun Ryu, Residence Not Provided;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 10-2003-0010403 02/19/2003

If Required, Foreign Filing License Granted: 05/07/2004

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

Non-Publication Request: No

Early Publication Request: No

Title

Preliminary Class

257

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

GRANTED

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

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

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

NOT GRANTED

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


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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/780,245	02/17/2004	2812	900	5649-1200	7	15	1

CONFIRMATION NO. 9654

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

CORRECTED FILING RECEIPT


OC000000013263028

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)

 Chang-hyun Park, Kyungki-do, KOREA, REPUBLIC OF;
 Young-gun Ko, Kyungki-do, KOREA, REPUBLIC OF;
 Hee-sung Kang, Kyungki-do, KOREA, REPUBLIC OF;
 Sang-jin Lee, Seoul, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant
Foreign Applications

REPUBLIC OF KOREA 10-2003-10323 02/19/2003

If Required, Foreign Filing License Granted: 05/07/2004

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

Non-Publication Request: No

Early Publication Request: No

Title

Methods of fabricating MOS field effect transistors with pocket regions

Preliminary Class

438

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

GRANTED

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

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

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

NOT GRANTED

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



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AUG 11 2004

OFFICE OF PETITIONS

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

In re Application of :
Chang-hyun Park et al :DECISION GRANTING FILING
Application No. 10/780,245 :DATE OF February 17, 2004
Filed: February 17, 2004 :
Attorney Docket No. 5649-1200 :

This is a decision on the petition filed May 20, 2004, requesting that the above-identified application be accorded a filing date of February 17, 2004, rather than the filing date of February 18, 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 17, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EV 381447412 US showing a stamped date of February 17, 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 17, 2004.

In view of the evidence in the file, it is concluded that the application was deposited in Express Mail service on February 17, 2004. Accordingly, the instant application is entitled to a filing date of February 17, 2004 and has been so accorded. A filing receipt with the corrected filing date was mailed on July 16, 2004.

The petition is granted.

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

The application is being referred to Technology Center Art Unit 2812.


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



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PO BOX 37428
RALEIGH NC 27627

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NOV 17 2005

OFFICE OF PETITIONS

In re Application of :
Horii et al. :
Application No. 10/780,246 : DECISION GRANTING PETITION
Filed: 17 February, 2004 :
Atty Dckt No. 5649-1207 :

This is a decision in reference to the petition filed on 3 October, 2005, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 17 February, 2004, rather than the currently-accorded filing date of 18 February, 2004.

The petition is granted.

Petitioner alleges that the application was deposited in Express Mail service on 17 February, 2004. In support, on 3 October, 2005, petitioners supplied a copy of Express Mail Label No. EV353594159US (the same Express Mail number found on the itemized provisional application cover sheet accompanying the original application papers located in the official file). Although the "date-in" on the Express Mail label is incomplete, the label contains an Official USPS postmark dated 17 February, 2004.

As such, the showing of record is that the correct date of deposit in Express Mail is 17 February, 2004.

In view of the above, the petition is granted. No fee is required and none has been charged.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 17 February, 2004, and for issuance of a corrected Filing Receipt.

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

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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DIANE DUNN MCKAY ESQ.
MATHEWS COLLINS SHEPHERD & GOULD, P.A.
SUITE 306
100 THANET CIRCLE
PRINCETON, NJ 08540

COPY MAILED

AUG 22 2007

OFFICE OF PETITIONS

In re Application of :
Yogendra Singh et al :
Application No. 10/780,250 :
Filed: February 17, 2004 :
Attorney Docket No. 4752-103.1 US :

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 18, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 19, 2006.

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

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

Telephone inquiries 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: Cynthia Soumoff
29 Thanet Road, Suite 201
Princeton, NJ 08540



Paper No.

DAVID H. JUDSON
15455 DALLAS PARKWAY
SUITE 600
ADDISON, TX 75001

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DEC 16 2004

OFFICE OF PETITIONS

In re Application of :
Pratyush Moghe :
Application No. 10/780,252 : DECISION ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. Tizer - 001 :

This is a decision on the PETITION UNDER 37 C.F.R. 1.53(e) TO ACCORD ORIGINAL FILING DATE, filed October 21, 2004. Applicant requests that the above-identified nonprovisional application be accorded its original filing date of February 17, 2004, and that the petition fee of \$130 be refunded.

The petition is **GRANTED**.

The request for refund is **GRANTED**.

Application papers in the above-identified nonprovisional application were deposited on February 17, 2004. However, on August 10, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited February 17, 2004 had not been accorded a filing date because the application was deposited without drawings. (In addition, the Notice required the filing of a substitute specification.)

In response, applicant filed the instant petition. Petitioner states that applicant filed the application *pro se* and was unfamiliar with the requirement that drawings cannot be filed as embedded objects in a specification. (Petitioner has submitted a substitute specification to remove the embedded drawings.) Petitioner states, nevertheless, drawings were not necessary for the understanding of the subject matter sought to be patented. Specifically, petitioner states that the original application contained one or more method claims and, therefore, the application is an application for which drawings are not necessary under 35 U.S.C. 113.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 111(a)(4) provides that:

The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

In regards to withdrawing the Notice, MPEP § 601.01(f) also states that:

a nonprovisional application having at least one claim ..., directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

A review of the application confirms that as filed it contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

However, as the specification in the instant nonprovisional application contained reference to drawing figures 1 through 7 (Brief Description of Drawings, p. 4 of Specification), mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." To the extent that the Notice stated that the instant application is not entitled to a filing date, the "Notice of Incomplete Nonprovisional Application" mailed August 10, 2004, was mailed in error and is hereby **withdrawn**.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of February 17, 2004.

Given the basis for granting the petition, the petition fee is being refunded by Treasury Check under separate cover.

Receipt of the power of attorney and change of address filed with the petition is acknowledged and made of record.

CONCLUSION

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for further processing with a filing date of February 17, 2004 and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

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



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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Alexandria, VA 22313-1450
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Jeffrey Urian
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re application of	:
O'Banion et al.	:
Application No.: 10/780256	:DECISION ON PETITION
Date of Filing: February 17, 2004	:FOR CORRECTION OF
For: METHOD AND APPARATUS FOR	:INVENTORSHIP OF PATENT
FASTENING STEEL FRAMING WITH	:
STAGGERED TEETH NAILS	:

This is in response to applicant's Petition for Correction of Inventorship of Patent under 37 CFR 1.48(b) which was filed in the Patent and Trademark Office on August 31, 2004.

The petition is **GRANTED**.

The applicant has requested deleting inventors to the above-filed application, because the inventor's invention is no longer being claimed in the application. In accordance with 37 CFR 1.48(b), the applicant has submitted a petition, which contains the appropriate fee, and a proper statement by applicant's representative. It is noted that a preliminary amendment to his application cancelled claims 1-84, presumably drawn to the inventive contribution from Mr. Moores, Jr., Mr. Puzio, Mr. Berry and Mr. Judge.

Telephone inquires relative to this decision should be directed to Examiner K. Mitchell at 703-305-6713.

ROBERT J. SANDY
PRIMARY EXAMINER


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/780,274	02/16/2004	2131	1274	MS1-1858US	4	48	3

22801
 LEE & HAYES PLLC
 421 W RIVERSIDE AVENUE SUITE 500
 SPOKANE, WA 99201

CONFIRMATION NO. 2211
CORRECTED FILING RECEIPT



OC000000013383660

Date Mailed: 07/29/2004

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)

Giovanni M. Della-Libera, Seattle, WA;
 Vijay K. Gajjala, Sammamish, WA;
 Tomasz Janczuk, Sammamish, WA;
 John R. Lambert, Bellevue, WA;
 Elliot Waingold, Seattle, WA;

Assignment For Published Patent Application

Microsoft Corporation;

Domestic Priority data as claimed by applicant
Foreign Applications

If Required, Foreign Filing License Granted: 05/08/2004

Projected Publication Date: 08/18/2005

Non-Publication Request: No

Early Publication Request: No

Title

Generic security claim processing model

Preliminary Class

713

**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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DW 10-07

JOHN S. EGBERT
HARRISON & EGBERT
7TH FLOOR
412 MAIN STREET
HOUSTON TX 77002

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MAR 09 2007

OFFICE OF PETITIONS

In re Application of :
Matthias Michael Brennfleck :
Application No. 10/780,283 : DECISION ON PETITION
Filed: 02/17/2004 :
Atty. Docket No. 1745-11 :

This is a decision on the petition filed on 6 December, 2006, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

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

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

The application became abandoned on 8 September, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due and corrected drawings in response to the Notice of Allowability both mailed on 7 June, 2006, which set a three (3) month statutory period to respond. Notice of Abandonment was mailed on 9 October, 2006.

Receipt of the issue and publication fees and corrected drawings is acknowledged.

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

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



JONATHAN P. OSHA
OSHA - LIANG
SUITE 2800
1221 MCKINNEY
HOUSTON TX 77010

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FEB 10 2006

OFFICE OF PETITIONS

In re Application of :
Masashi Miyazaki et al :
Application No. 10/780,286 :
Filed: February 17, 2004 :
Attorney Docket No. 02008/150001 :

ON PETITION

This is a decision on the petition, filed February 1, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

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

The examiner of Technology Center AU 2857 will consider the request for continued examination under 37 CFR 1.114.

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

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



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P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Masayuki Ikeda	:	
Application No. 10/780,288	:	ON PETITION
Filed: February 17, 2004	:	
Attorney Docket No. 9319S-000631	:	

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

A review of the record discloses that the above-identified application became abandoned for failure to timely pay the issue fee on or before September 1, 2005. The application is being revived for consideration of a submission under 37 CFR 1.114. However, 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. Therefore, the requisite issue fee is being charged to counsel's deposit account.

The petition is **GRANTED**.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination) filed November 22, 2005.

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 November 22, 2005, be applied towards the issue fee required by the new Notice of Allowance and Fee(s) Due.

The application file is being forwarded to Technology Center AU 3662, for further processing of the request for continued examination under 37 CFR 1.114 filed November 22, 2005.

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

Andrea Smith
Petitions Examiner
Office of Petitions



TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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DEC 22 2008

In re Application of :
DOW, Steven W. et al. :
Application No. 10/780,294 :
Filed: February 17, 2004 :
Attorney Docket No. 021819-000200US :

OFFICE OF PETITIONS

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 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 Jenkins on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated with the Customer Number 20350 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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


Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: STEVEN W. DOW
8 BLUE GROUSE RIDGE ROAD
LITTLETON CO 80127

cc: JUVARIS BIO THERAPEUTICS, INC.
863A MITTEN ROAD
BURLINGAME CA 94010



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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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MAR 16 2009

OFFICE OF PETITIONS

In re Application :
Friedman, et al. :
Application No. 10/780,295 : PATENT TERM ADJUSTMENT
Filed: February 17, 2004 :
Dkt. No.: 16454.00002 D2 :

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 7, 2009.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed October 8, 2008, indicated a patent term adjustment (PTA) to date of 330 days. The instant application for PTA was timely filed January 7, 2009 at the time of payment of the issue fee. Applicants argue that application is entitled to an additional adjustment of 256 days in accordance with 37 CFR 1.702(b).

Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the

patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The required patent term adjustment application fee of \$200.00 has been charged to applicants' deposit account, as authorized.

The application file 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 Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



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OFFICE OF PETITIONS

Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

In re Patent No. 7,521,258 :
Friedman et al. : DECISION UPON REMAND AND
Issue Date: April 21, 2009 : RECONSIDERATION OF
Application No. 10/780,295 : PATENT TERM ADJUSTMENT
Filed: Feb. 17, 2004 : AND NOTICE OF INTENT
Attorney Docket No. : TO ISSUE CERTIFICATE OF
16454.00002D2 : CORRECTION
Title: Methods of Detecting, :
Measuring, and Evaluating
Modulators of Body Weight in
Biological Samples and
Diagnostic, Monitoring, and
Therapeutic Uses Thereof

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred eighty-four (584) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred eighty-four (584) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

Patent No. 7,521,258
/Kery A. Fries/

Application No. 10/780,295 Page 2

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

Day : Tuesday
Date: 5/18/2010**PALM INTRANET**

Time: 12:18:04

PTA Calculations for Application: 10/780295			
Application Filing Date:	02/17/2004	PTO Delay (PTO):	441
Issue Date of Patent:	04/21/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	111
Post-Issue Petitions:	0	Total PTA (days):	584
PTO Delay Adjustment:	254		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
80	05/18/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	254		
74.5	04/01/2009	PTA 36 MONTHS			
74	04/21/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
73	03/20/2009	EXPORT TO FINAL DATA CAPTURE			
72	03/19/2009	DISPATCH TO FDC			
71	03/16/2009	MAIL-PETITION DECISION - DISMISSED			
70	03/16/2009	PETITION DECISION - DISMISSED			
69	01/07/2009	PETITION ENTERED			
68	01/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
67	01/07/2009	ISSUE FEE PAYMENT VERIFIED			
66	01/07/2009	ISSUE FEE PAYMENT RECEIVED			
65	11/18/2008	FINISHED INITIAL DATA CAPTURE			
64	10/24/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
63	10/13/2008	EXPORT TO INITIAL DATA CAPTURE			
62	10/08/2008	MAIL NOTICE OF ALLOWANCE	6		53
61	10/01/2008	ISSUE REVISION COMPLETED			
60	10/01/2008	DOCUMENT VERIFICATION			
59	10/01/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	10/01/2008	CASE DOCKETED TO EXAMINER IN GAU			
57	10/01/2008	NOTICE OF ALLOWABILITY			
54	07/06/2008	DATE FORWARDED TO EXAMINER			
53	06/02/2008	RESPONSE AFTER NON-FINAL ACTION		22	51
52	06/02/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

51	02/11/2008	MAIL NON-FINAL REJECTION			
50	02/04/2008	NON-FINAL REJECTION			
45	11/24/2007	DATE FORWARDED TO EXAMINER			
44	10/30/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	11/24/2007	DATE FORWARDED TO EXAMINER			
42	10/30/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	11/24/2007	DISPOSAL FOR A RCE / CPA / R129			
40	10/30/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
39	10/17/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
38	10/16/2007	CORRESPONDENCE ADDRESS CHANGE			
37	09/19/2007	MAIL FINAL REJECTION (PTOL - 326)			
36	09/17/2007	FINAL REJECTION			
35	07/05/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
34	07/13/2007	DATE FORWARDED TO EXAMINER			
33	07/05/2007	RESPONSE AFTER NON-FINAL ACTION		86	31
32	07/05/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	01/10/2007	MAIL NON-FINAL REJECTION			
30	01/08/2007	NON-FINAL REJECTION			
29	02/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	10/05/2006	DATE FORWARDED TO EXAMINER			
27	09/29/2006	RESPONSE TO ELECTION / RESTRICTION FILED		3	25
26	09/29/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	06/26/2006	MAIL RESTRICTION REQUIREMENT	435		-1
24	06/23/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
23	11/02/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
22	11/02/2004	CASE DOCKETED TO EXAMINER IN GAU			
21	02/17/2004	REFERENCE CAPTURE ON IDS			
20.7	02/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/21/2004	APPLICATION RETURN FROM OIPE			

18	07/21/2004	APPLICATION RETURN TO OIPE			
17	07/21/2004	APPLICATION DISPATCHED FROM OIPE			
16	07/21/2004	APPLICATION IS NOW COMPLETE			
15	06/25/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
14	02/17/2004	CLAIM PRELIMINARY AMENDMENT			
13	06/25/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
12	06/15/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
9	06/02/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
8	02/17/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
5	03/31/2004	CLEARED BY L&R (LARS)			
4	03/23/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/23/2004	CASE CLASSIFIED BY OIPE			
2	03/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/17/2004	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,521,258 B2

DATED : April 21, 2009

DRAFT

INVENTOR(S) : Friedman 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 330 days

Delete the phrase "by 330 days" and insert -- by 584 days--



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

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MAY 02 2006

OFFICE OF PETITIONS

Applicant: Wilson et al.
Appl. No.: 10/780,296
Filing Date: February 17, 2004
Title: A1 ADENOSINE RECEPTOR ANTAGONISTS
Attorney Docket No.: 049542/283879
Pub. No.: US 2005/0119258 A1
Pub. Date: June 2, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on July 29, 2005, for the above-identified application.

The request is **DISMISSED**.

Applicant requests that the application be republished because the patent application publication contains numerous material errors in the claims.

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

The request for corrected publication cannot be granted because the request does not clearly point out the error in the publication and give an indication where the correct text for the material errors appears in the application.

Applicant is given 2 months to supply the required the information and submit a renewed request for republication.

¹Changes 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).

A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

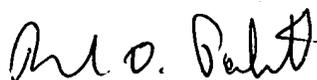
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

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JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Apollon Papadimitriou :
Application No. 10/780,297 : **ON PETITION**
Filed: February 17, 2004 :
Attorney Docket No.: 20619US1 :
:

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

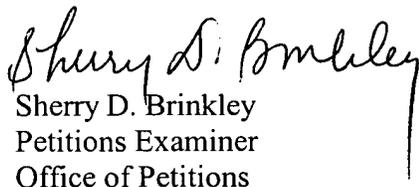
The petition is **GRANTED**.

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 November 21, 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 1656 for further processing of the request for continued examination under 37 CFR 1.114.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹The 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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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant : Edward K. O'Neil : DECISION ON REQUEST FOR
Patent Number : 7650276 : RECALCULATION of PATENT
Issue Date : 01/19/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/780,300 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/17/2004 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1512** 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.



TUNG & ASSOCIATES
838 WEST LONG LAKE, SUITE 120
BLOOMFIELD HILLS MI 48302

COPY MAILED

OCT 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Bill Tobler et al.	:	DECISION ON PETITION
Application No. 10/780,301	:	
Filed: February 17, 2004	:	
Attorney Docket No.: 81091394	:	

This is a decision on the petition to reset the response time and avoid abandonment under 37 CFR 1.137(a) and 1.137(b), filed September 14, 2005.

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

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

This application became abandoned on June 19, 2005, for failure to file a timely response to the non-Final Office Action mailed March 18, 2005, which set a three (3) month period for reply. The instant petition and this decision precede the mailing of a Notice of Abandonment.

Petitioner asserts that the non-Final Office Action was never received.

UNAVOIDABLE DELAY

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. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with §

- 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in § 1.17(l);
 - (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
 - (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.¹

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.²

¹In *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).

²*Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner asserts that the Notice mailed March 18, 2005 was never received. A review of the record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the 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 petitioner's statement.³

Petitioner has not submitted additional evidence to corroborate the allegation of non-receipt. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

UNINTENTIONAL DELAY

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

³M.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) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

It is acknowledged that petitioner claims to not have received the non-Final Office Action mailed March 19, 2005 however, while petitioner has not proven non-receipt and thus won't be able to prevail on an argument of unavoidable delay, petitioner will also not be able to prevail on an argument of unintentional delay. Under both the unavoidable standard and the unintentional standard, the instant petition lacks item (1), or the required reply to the non-Final Office Action.

Additionally, the fee set by statute for a petition under 37 CFR 1.137(a) is \$250.00 for a small entity and \$500.00 for a large entity. The fee set by statute for a petition under 37 CFR 1.137(b) is \$750.00 for a small entity and \$1,500.00 for a large entity. Thus, pursuant to the authorization to charge petitioner's deposit account, deposit account no. 06-1505 has been charged in the amount of \$1,870.00 (the difference between the petition fee paid, \$130.00, and that which was due under both 37 CFR 1.137(a) and 1.137(b)).

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



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



TUNG & ASSOCIATES
838 WEST LONG LAKE, SUITE 120
BLOOMFIELD HILLS MI 48302

COPY MAILED

FEB 17 2006

OFFICE OF PETITIONS

In re Application of :
Bill Tobler et al. : **DECISION ON PETITION**
Application No. 10/780,301 :
Filed: February 17, 2004 :
Attorney Docket No.: 81091394 :

This is a decision on the renewed petition under 37 CFR 1.137(a)¹, filed December 27, 2005 (certificate of mail date December 21, 2005).

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

This application became abandoned on June 19, 2005, for failure to file a timely response to the non-Final Office Action mailed March 18, 2005, which set a three (3) month period for reply. A petition filed under 37 CFR 1.137(a) and under 37 CFR 1.137(b), filed September 14, 2005 prior to the mailing of the Notice of Abandonment, was dismissed in a decision mailed October 21, 2005 because while petitioner asserted that the non-Final Office Action was never received, petitioner did not present a showing that the Office action was not in fact received and thus that the failure to file a timely response was unavoidable.

An application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.²

¹A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in § 1.17(l);
- (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

²Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.³

The showing required to establish the failure to receive an Office action must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the 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 petitioner’s statement.⁴

As petitioner has submitted a copy of records used for docketing and asserts that the office action was not received, under the unavoidable the standard the petition is grantable.

On renewed petition, petitioner argues that having claimed the delay was also unintentional in the September 14, 2005 was inadvertent and that they only meant to argue under the unavoidable standard. Unfortunately, both the petition transmittal cover sheet and the petition itself noted 37 CFR 1.137(a) and 37 CFR 1.137(b) and also authorized the charging of the deposit account for any additional required fees.

In that case, there was no way for the USPTO to know petitioner’s intent with respect to

³In *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).

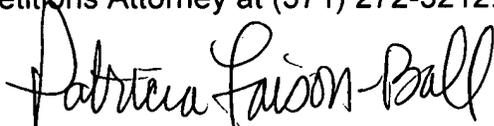
⁴M.P.E.P. § 711.03(c); See Notice entitled “Withdrawing the Holding of Abandonment When Office Actions Are Not Received,” 1156 O.G. 53 (November 16, 1993).

how the petition should be treated was other than how it was captioned.

In view thereof, the charge for treating the petition under the unintentional standard was justified and cannot be reversed and refunded.

This matter is being referred to Technology Center 3683 for appropriate action on the amendment filed December 27, 2005.

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

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Practitioner Deck t N . HES 2002-IP-009337U1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: B. Raghava Reddy et al.

Application No.: 0 / 10/780314 unknown Group No.: unknown 1712

Filed: concurrently herewith 2-17-04 Examiner: unknown Kugel, T

For: Well Bore Servicing Fluids Comprising Thermally Activated Viscosification...

Assistant Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Group Director, Group _____ (M.P.E.P. § 1002.02(c))

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. § 1.102(c) AND M.P.E.P. § 708.02 IV)

NOTE: See M.P.E.P. § 708.02, 7th ed.

Applicant hereby petitions to make this application special because applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is:

(check one of the following)

- applicant's birth certificate.
- a declaration by the applicant that he/she is over 65 years of age.

No fee is required with this petition, in accordance with 37 C.F.R. § 1.102(c).

Craig W. Roddy

SIGNATURE OF PRACTITIONER

Craig W. Roddy

(type or print name of practitioner)

P.O. Box 1431

P.O. Address

Duncan, OK 73536-0440

Reg. No.: 36,256

Tel. No.: (580) 251-3012

Customer No.:

Application # 10/780314
Filed 2-17-04

(Petition to Make Special Because of Applicant's Age [9-15.3])

PETITION GRANTED

William Krynski

William Krynski,
Special Program Examiner
Technology Center 1700

APR 1 1 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

THOMAS R. SHAFFER
5 EAST THIRD STREET
PO BOX 509
COUDERSPORT, PA 16915

COPY MAILED
APR 13 2006
OFFICE OF PETITIONS

In re Application of
David Szymanski
Application No. 10/780,323
Filed: February 17, 2004
Attorney Docket No. 04010

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 7, 2005.

The petition 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 R. Shaffer, an attorney of record.

Thomas R. Shaffer has been withdrawn as attorney of record.

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

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

This application is being referred to Technology Center AU 3724.

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


David Bucci
Petitions Examiner
Office of Petitions

cc: DAVID SZYMANSKI
633 S. ST. MARYS STREET
ST. MARYS, PA 15857



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHERSKOV & FLAYNIK
STE. 1447
THE CIVIC OPERA BUILDING
20 NORTH WACKER DRIVE
CHICAGO IL 60606

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JUN 20 2005

OFFICE OF PETITIONS

In re Application of :
Rajesh K. Ahluwalia et al :
Application No. 10/780,348 : DECISION GRANTING PETITION
Filed: February 17, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 0003/01283 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of drawing sheet; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of May 10, 2004, is accepted as having been unintentionally delayed.

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

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

A handwritten signature in cursive script that reads "Karen Creasy".

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



BAKER BOTTS LLP
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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DEC 03 2008

OFFICE OF PETITIONS

In re Application of :
Timm J. Fenton :
Application No. 10/780,352 :
Filed: February 17, 2004 :
Attorney Docket No. A36163-072841.0234 :

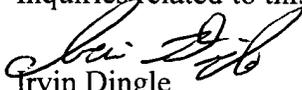
NOTICE

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

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

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

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions



MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED
JAN 19 2010

In re Application of :
Alex Simmons, et al. :
Application No. 10/780,366 : DECISION GRANTING PETITION
Filed: February 17, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 14, 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 July 10, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant : Anuj Jain : DECISION ON REQUEST FOR
Patent Number : 7660004 : RECALCULATION of PATENT
Issue Date : 02/09/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/780,367 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/17/2004 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1708** 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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**E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805**

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AUG 14 2008

In re Application of :
Owen H. Decker, et al. :
Application No. 10/780,392 : **ON PETITION**
Filed: February 17, 2004 :
Attorney Docket No. FA1139USNA :

This is a decision on the petition under 37 CFR 1.137(b), filed March 23, 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 June 19, 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 September 20, 2006. The Notice of Abandonment was mailed January 19, 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.

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 Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1712 for appropriate action on the concurrently filed amendment.



Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **HILMAR L. FRICKE**
1313 N. MARKET STREET
P.O. BOX 951
WILMINGTON, DE 19899-0951

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081115

DATE : November 15, 2008

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7,101,741

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:

ok to enter

/SUE A PURVIS/
Supervisory Patent Examiner.Art Unit 2826



**IMMUNICON CORPORATION
3401 MASONS MILL ROAD
SUITE 100
HUNTINGDON VALLEY, PA 19006**

COPY MAILED

DEC 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Rao et al. :
Application No. 10/780,399 : ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. IMMC 308PCT/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 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, June 15, 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 timely obtained. Accordingly, the application became abandoned on September 16, 2007. A Notice of Abandonment was mailed December 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and a specification, (2) the petition fee of \$1,620, and (3) an adequate statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$2,350 extension of time fee submitted with the petition on December 2, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 1641 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOSEPH F. ACETO
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003



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Commissioner for Patents
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Paper No.

STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

COPY MAILED

JUN 05 2009

OFFICE OF PETITIONS

Patent No. 6,806,136 :
Hsiu-Wen Hsu :
Issue Date: October 19, 2004 :
Application No. 10/780,416 : DECISION ON PETITION
Filed: February 17, 2004 :
Attorney Docket No. EP01-003 :

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c)) filed December 18, 2008 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued October 19, 2004. The grace period for paying the first maintenance fee provided in 37 CFR 1.362(e) expired at midnight on October 19, 2008, with no payment received.

The petition was timely filed within twenty-four months after the expiration of the six-month grace period. Further, as required, petitioner submitted with the petition the required maintenance fee, the surcharge for accepting an unintentionally delayed maintenance fee after expiration, and a statement that the delay in payment of the maintenance fee was unintentional.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

A handwritten signature in black ink that reads "Nancy Johnson". The signature is written in a cursive style with a large, looping initial "N".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

In re Application of :
TUSTANIWSKYJ, et al. : DECISION ON PETITION
Application No. 10/780,417 :
Filed: February 16, 2004 :
Atty. Dkt. No.: 047589-0252 :

This is a decision on the petition under 37 CFR 1.137(f), filed June 15, 2006, to revive the above-identified application.

Petitioners state that the instant non-provisional application is the subject of an application filed February 3, 2005 in a foreign country, or under a multinational treaty, that requires publication of applications eighteen months after filing. Petitioners' further state that petitioners unintentionally failed to notify the Office of this filing within 45 days of the filing of the subject application in a foreign country.

Hence, the application became abandoned pursuant to 35 USC 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 grantable petition under 37 CFR 1.137(f) must be accompanied by: (1) the reply; (2) the petition fee; (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; 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 to be in compliance with the provisions of 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 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Enclosed please find a Notice regarding rescission.

Application No. 10/780,417

This application file is being forwarded to Technology Center 2800 for further processing.

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



Alesia M. Brown
Petitions Attorney
Office of Petitions



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.
10/780,417	02/16/2004	Jerry Ihor Tustaniwskyj	047589-0252

CONFIRMATION NO. 1312

22428
 FOLEY AND LARDNER LLP
 SUITE 500
 3000 K STREET NW
 WASHINGTON, DC 20007

Date Mailed: 08/21/2006

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 11/30/2006.

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".



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application of: BOHN Jr. et al.

Serial No.: 10/780,424

Examiner:

Date Filed: February 17, 2004

Group: 1762

For: DYNAMICALLY MODIFIABLE POLYMER COATINGS AND DEVICES

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 20, 2004.

Neil R. Jetter Reg. No. 46,803

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102 (c) and (d)

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

Sir:

Pursuant to 37 C.F.R. § 1.102(c) and (d), and MPEP 708.02, Applicants hereby petition to make special for an advancement the above-described application filed herewith. Although no fee is believed due, the Commissioner is hereby authorized to charge any fee deemed due or credit any overpayment to Deposit Account number 50-0951.

Applicants request special status for the above-referenced application on the basis that the claimed technology will materially enhance the quality of the environment as recited in 37 C.F.R. § 1.102(c) and can substantially aid in homeland defense, including the countering terrorism.

PETITION GRANTED
Richard Crispino
Richard Crispino
Special Program Examiner
TC1700 JUN 28 2005



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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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FROM DIRECTORS OFFICE

NOV 17 2004

TECHNOLOGY CENTER 3600

Chauza & Handley, L.L.P.
P.O. Box 140036
Irving, TX 75014

In re application of : **DECISION ON PETITION**
Lee A. Smith et al. : **TO MAKE SPECIAL**
Application No. 10/780,433 : **(ENVIRONMENTAL QUALITY)**
Filed: February 17, 2004 :
For: METHOD OF FORMING A MAT OF EROSION
CONTROL BLOCKS

This is a decision on the petition filed February 17, 200⁴, under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section V: Environmental Quality.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition includes a statement by Roger N. Chauza, attorney for applicants. Mr. Chauza states that "the invention relates to erosion control blocks, and methods of cabling the blocks together to prevent erosion of the soil in water channels, terraces, waterways, shorelines, beaches, bayous, etc. The techniques described in the captioned application allow erosion control blocks to be fabricated, cabled together and installed as a mattress to thereby prevent erosion of the underlying ground and thus materially enhance the environment."

For the above stated reasons, the petition is **GRANTED**.

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

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



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

KJD/rwg: 10/21/04



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Paper No. 41205

Harry M. Levy, Esq.
EMRICH & DITHMAR LLC
125 South Wacker Drive, Suite2080
Chicago, IL 60606

APR 13 2005

In re Application of:
BALACHANDRAN *et al.*
Serial No.: 10/780,451
Filed: February 17, 2004
Attorney Docket No.: ANL 287

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 22, 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 Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item IX: Special status for patent applications relating to superconductivity.

A grantable petition to make an application special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IX, for an invention that relates to superconductivity materials, should be accompanied by a statement under 37 CFR 1.102 that the invention involves superconductive materials.

Accompanying the petition is a statement by Uthamalingam Balachandran that the invention involves superconductive materials.

For the above stated reasons, the petition is GRANTED.

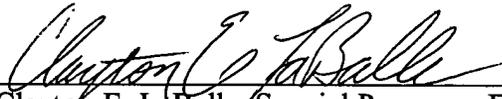
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent 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 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 LaBalle at (571) 272-1594.



Clayton E. LaBalle, 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

09/24/04

Eric L. Prah
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/780455 received on 08/23/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

A handwritten signature in cursive script that reads "Kaletus King".

Signature of Reviewer, Office of Pre-Grant Publication



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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant : Phillip Clark : DECISION ON REQUEST FOR
Patent Number : 7588728 : RECALCULATION of PATENT
Issue Date : 09/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/780,463 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/17/2004 : ISSUE CERTIFICATE OF CORRECTION
:

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

The patent term adjustment has been determined to be **1028** 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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APR 02 2007

OFFICE OF PETITIONS

In re Application of :
Carel J. L. Van Driel :
Application No. 10/780,473 :
Filed: February 17, 2004 : DECISION ON PETITION
Attorney Docket No. PHN 16-613A : UNDER 37 C.F.R. §1.181(A)
Title: COMMUNICATION NETWORK :
USING DIFFERENT TRANSMISSION :
PROPERTIES :

This is a decision on the petition pursuant to 37 C.F.R. §1.181(a), filed on January 3, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-Compliant Appeal Brief, mailed August 3, 2006, which set a period for reply of one month. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on September 4, 2006. A notice of abandonment was mailed on October 12, 2006.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. §1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the

proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a response to this communication was submitted on September 5, 2006 (September 4, 2006 fell on a federal holiday). The electronic file has been reviewed, and the response which was purportedly submitted on September 5, 2006 has not been located.

Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission dated September 5, 2006. Certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of mailing was executed by one Moira Anderson, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

Petitioner has included a statement from Mark Woodall (it appears that Ms. Anderson is his administrative assistant), however it does not appear that he has firsthand knowledge of the relevant transmission - it is noted that Mr. Woodall has not set forth that he witnessed the sending of this communication. On renewed petition, Petitioner may wish to include a statement from Ms. Anderson.

CONCLUSION

Pursuant to the discussion above, the submission is incomplete. It follows that the present petition pursuant to 37 C.F.R. §1.181 must be DISMISSED.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail¹, hand-delivery², or facsimile³. If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁴. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.

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



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JUN 14 2007

In re Application of :
Carel J. L. Van Driel :
Application No. 10/780,473 :
Filed: February 17, 2004 : DECISION ON RENEWED PETITION
Attorney Docket No. PHN 16-613A : UNDER 37 C.F.R. §1.181(A)
Title: COMMUNICATION NETWORK :
USING DIFFERENT TRANSMISSION :
PROPERTIES :

OFFICE OF PETITIONS

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.181(a), filed on May 30, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-Compliant Appeal Brief, mailed August 3, 2006, which set a period for reply of one month. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on September 4, 2006. A notice of abandonment was mailed on October 12, 2006.

PROCEDURAL HISTORY

The original petition was filed on January 3, 2007, and was dismissed via the mailing of a decision on April 2, 2007.

The decision on the original petition set forth:

The showing in the present petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that a response to this communication was submitted on September 5, 2006 (September 4, 2006 fell on a federal holiday). The

electronic file has been reviewed, and the response which was purportedly submitted on September 5, 2006 has not been located.

Petitioner has submitted a copy of this response, and it is noted that it contains a certificate of facsimile transmission dated September 5, 2006. Certificate of facsimile transmission practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received.

Petitioner's submission has been reviewed: with the present petition, Petitioner has informed the Office of the previous mailing and provided an additional copy of the previously submitted correspondence. However, it is noted that the certificate of mailing was executed by one Moira Anderson, and it does not appear that Petitioner has included a statement from this individual. 37 C.F.R. §1.8(b)(3) requires the inclusion of a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission.

ANALYSIS

With this renewed petition, Petitioner has submitted a statement of facts from Ms. Anderson, along with a copy of the response of September 5, 2006.

CONCLUSION

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 a complete response was timely submitted, pursuant to 37 C.F.R. § 1.8.

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 notify the Examiner of this decision, so that the supplemental Appeal Brief that was presented with the present petition 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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office



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AUG 06 2007

OFFICE OF PETITIONS

John Choate
PO Box 9949
Arlington VA 22219-1949

In re Application of	:	
John I. M. Choate	:	
Application No. 10/780,476	:	DECISION ON PETITION
Filing Date: February 16, 2004	:	UNDER 37 C.F.R. § 1.183
Title: APPARATUS THAT IMPROVES	:	
DISCOVERY OF CANCER MASS, AND	:	
REDUCES INFLAMMATION - ONSET OF	:	
SYMPTOMS OF CARPAL TUNNEL	:	
SYNDROME OR ARTHRITIS - TACTILE	:	
DEFICIT OF FINGERS, AND	:	
INCREASES DISCOVERY OF FOREIGN	:	
MASS IN BREAST AND OTHER SELF	:	
EXAMINATIONS	:	

Background

This is a decision on the petition filed on April 16, 2007, which is properly treated as a petition pursuant to 37 C.F.R. § 1.183. Petitioner has requested the waiver of Rules §§ 1.134 and 1.135, which requires applicants to respond within a specific time period, and permits extensions of time if so required.

The Change of Address has been entered and made of record.

Petition fee requirement

The fee for filing a petition pursuant to this section of the C.F.R. is set forth in 37 C.F.R. §1.17(f) as being \$400, with no reduction for small entity status. Petitioner has submitted \$100

with this petition, and the petition does not appear to contain a general authorization to charge any deficient fees to a Deposit Account.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. §1.183. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature.

It follows that this petition must be **DISMISSED**.

Conclusion

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.183." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail¹, hand-delivery², or facsimile³. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁴. If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

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



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1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

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3 (571) 273-8300- please note this is a central facsimile number.

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Paper No. None

John Choate
PO Box 9949
Arlington VA 22219-1949

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
John I. M. Choate :
Application No. 10/780,476 : DECISION ON PETITION
Filing Date: February 16, 2004 : UNDER 37 C.F.R. § 1.181
Title: APPARATUS THAT IMPROVES :
DISCOVERY OF CANCER MASS, AND :
REDUCES INFLAMMATION - ONSET OF :
SYMPTOMS OF CARPAL TUNNEL :
SYNDROME OR ARTHRITIS - TACTILE :
DEFICIT OF FINGERS, AND :
INCREASES DISCOVERY OF FOREIGN :
MASS IN BREAST AND OTHER SELF :
EXAMINATIONS :

This is a decision on the petition filed on October 1, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 13, 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 January 14, 2007. A notice of abandonment was mailed on September 12, 2007.

Procedural History

A petition pursuant to 37 C.F.R. § 1.183 was filed on April 16, 2007, which was dismissed via the mailing of a decision on August 6, 2007 for failure to include the required petition fee.

Relevant Portions of The C.F.R.

37 C.F.R. § 1.8 sets forth, *in pertinent part*:

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:
(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

37 C.F.R. §§ 1.10(a) and (c) set forth, in toto:

(a)

(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

(2) The date of deposit with USPS is shown by the "date in" on the "Express Mail" label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

...

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

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

A non-final Office action was mailed on October 13, 2006, which set a shortened statutory period for reply of three months. As such, the maximum extendable period for reply expired at midnight on April 13, 2007.

The electronic record has been reviewed, and it is noted that on April 16, 2007, an amendment, a three-month extension of time a request for the Office to waive the extension of time requirement, and the aforementioned Petition pursuant to Rule § 1.183 were received in the Office.

Each of these papers has been reviewed, and it does not appear that a certificate of mailing was placed on any of them.

With the present petition, Petitioner has asserted that these papers were mailed to the Office on April 12, 2007, and

As I mailed it from Arlington, Virginia, I had a reasonable basis to expect the response to be delivered the next day...

It appears that Petitioner believes that the present application is not in fact abandoned, as he failed to submit a reply until the terminal portion of the maximum extendable period for providing a response, and he expected that the mailing would be delivered to the Office in one day, when in fact, it took four days for the submission to reach the Office.

Rule § 1.8(a) makes it clear that the actual date of receipt in the Office is used when determining whether a piece of correspondence was timely filed. There are two exceptions to this rule: certificate of mailing/facsimile transmission practice and Express Mail practice.

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. Petitioner's submission of April 16, 2007 has been reviewed, and it does not appear to contain a certificate of mailing. As such, it does not appear that Petitioner can comply with 37 C.F.R. §1.8(b)(2).

37 C.F.R. § 1.10(c) provides an alternate mechanism by which an applicant may establish that a communication was submitted to the Office, but was not accorded the proper filing date by the same. Petitioner's submission of April 16, 2007 has been reviewed, and it does not appear that the originally deposited papers display the number of the express mail label thereon. As such, it does not appear that Petitioner can comply with either 37 C.F.R. §§ 1.10(a)(1) or (c)(2). Moreover, Petitioner has submitted a copy of a USPS Certified Mail Receipt, which suggests that this correspondence was not sent to the Office via the Express Mail service of the USPS.

Pursuant to the above discussion, the petition under 37 C.F.R. § 1.181 must be DISMISSED.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail¹, hand-delivery², or facsimile³. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁴.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b). Petitioner may download information about these petitions here:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁵. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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



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Paper No.

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FEB 19 2008

In re Application of :
John I. M. Choate :
Application No. 10/780,476 :
Filing Date: February 16, 2004 :
Title: APPARATUS THAT IMPROVES :
DISCOVERY OF CANCER MASS, AND :
REDUCES INFLAMMATION - ONSET OF :
SYMPTOMS OF CARPAL TUNNEL :
SYNDROME OR ARTHRITIS - TACTILE :
DEFICIT OF FINGERS, AND :
INCREASES DISCOVERY OF FOREIGN :
MASS IN BREAST AND OTHER SELF :
EXAMINATIONS :

OFFICE OF PETITIONS

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the renewed petition filed on December 14, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 13, 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 January 14, 2007. A notice of abandonment was mailed on September 12, 2007.

Procedural History

A petition pursuant to 37 C.F.R. § 1.183 was filed on April 16, 2007, which was dismissed via the mailing of a decision on August 6, 2007 for failure to include the required petition fee.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on October 1, 2007, and was dismissed via the mailing of a decision on October 26, 2007.

Relevant Portions of The C.F.R.

37 C.F.R. § 1.8 sets forth, *in pertinent part*:

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

- (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
 - (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
 - (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
- (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by

Decision on Renewed Petition Pursuant to 37 C.F.R. § 1.181

facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

The showing in this renewed petition is not sufficient to withdraw the holding of abandonment.

The decision on the original petition pursuant to 37 C.F.R. § 1.181 set forth, *in pertinent part*:

A non-final Office action was mailed on October 13, 2006, which set a shortened statutory period for reply of three months. As such, the maximum extendable period for reply expired at midnight on April 13, 2007.

The electronic record has been reviewed, and it is noted that on April 16, 2007, an amendment, a three-month extension of time a request for the Office to waive the extension of time requirement, and the aforementioned Petition pursuant to Rule § 1.183 were received in the Office.

Each of these papers has been reviewed, and it does not appear that a certificate of mailing was placed on any of them.

...

Certificate of mailing practice provides a mechanism by which Applicants may evince that a paper was timely submitted to the Office, in the event that the correspondence is not received. Petitioner's submission of April 16, 2007 has been reviewed, and it does not appear to contain a certificate of mailing. As such, it does not appear that Petitioner can comply with 37 C.F.R. §1.8(b)(2).

In the original petition pursuant to 37 C.F.R. § 1.181, Petitioner included the following statement:

I certify On April 12, 2007, I mailed the Response to the October 6, 2006, to the USPTO, by first class postage prepaid certified mail. I attach to this fax the certified mail receipt...

On renewed petition, Petitioner has alleged "there is nothing in the mailing rule that (sic) the certificate need be **simultaneous** (emphasis included)..." Consequently, Petitioner created a statement subsequent to the mailing described therein, and wishes to use this statement as a certificate of mailing to evince that the paper described therein was timely submitted to the Office.

Petitioner's interpretation of the Rule does not appear to be accurate.

The relevant portion of 37 C.F.R. § 1.8(a)(1) provides that that "correspondence will be considered as being timely filed" if the following four conditions are met:

- (i) The correspondence is mailed prior to expiration of the set period of time:
- (ii) The correspondence is addressed as set out in 37 C.F.R. § 1.1(a):
- (iii) The correspondence is deposited with the U.S. Postal Service with sufficient postage as first class mail, and;
- (iv) The correspondence **includes** a certificate for each piece of correspondence stating the date of deposit.

The rule requires that the mailing must include a certificate of mailing for each piece of correspondence contained therein. It follows that a certificate of mailing that is not created until after the mailing has taken place cannot be included with said mailing, as required by this Rule.

The mailing of April 12, 2007 (received on April 16, 2007) did not contain a certificate of mailing, because the statement that Petitioner wishes to use as a certificate of mailing was not in existence until its creation almost six months later.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181". This is not a final agency action within the meaning of 5 U.S.C § 704.

Thereafter, there will be no further reconsideration of this matter^{1, 2}.

1 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Loudon, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R. §§1.181, 182, 183.

2 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as

Petitioner's only relief is a petition under 37 C.F.R. § 1.137, and - having been made aware of this reality - any delay in promptly seeking relief under 37 C.F.R. § 1.137 may be considered evidence of intentional delay and an absolute bar to revival.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail³, hand-delivery⁴, or facsimile⁵. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁶.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁷. 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

final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will not apply to that decision.

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

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



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Paper No.

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of	:	
John I. M. Choate	:	
Application No. 10/780,476	:	DECISION ON PETITION
Filing Date: February 16, 2004	:	PURSUANT TO
Title: APPARATUS THAT IMPROVES	:	37 C.F.R. § 1.137(A)
DISCOVERY OF CANCER MASS, AND	:	
REDUCES INFLAMMATION - ONSET OF	:	
SYMPTOMS OF CARPAL TUNNEL	:	
SYNDROME OR ARTHRITIS - TACTILE	:	
DEFICIT OF FINGERS, AND	:	
INCREASES DISCOVERY OF FOREIGN	:	
MASS IN BREAST AND OTHER SELF	:	
EXAMINATIONS	:	

This is a decision on the petition filed March 3, 2008, pursuant to 37 C.F.R. § 1.137(a)¹, to revive the above-identified application.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 13, 2006, which set a shortened statutory period for

¹ A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(1);
- (3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

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 January 14, 2007. A notice of abandonment was mailed on September 12, 2007.

Procedural History

A petition pursuant to 37 C.F.R. § 1.183 was filed on April 16, 2007, which was dismissed via the mailing of a decision on August 6, 2007 for failure to include the required petition fee.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on October 1, 2007, and was dismissed via the mailing of a decision on October 26, 2007.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on December 14, 2007, and was dismissed via the mailing of a decision on February 19, 2008.

The Applicable Standard

Nonawareness of a PTO rule will not constitute unavoidable delay²

The burden of showing the cause of the delay is on the person seeking to revive the application³.

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."⁴

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)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel. See also Donnelley v. Dickinson, 123 Fsupp2d 456, 459.

³ Id.

⁴ See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

Decision on Renewed Petition Pursuant to 37 C.F.R. § 1.181

A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP is not rendered "unavoidable" due to either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action⁵.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"⁶

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present⁷.

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable"⁸.

Relevant Portions of The C.F.R. and M.P.E.P.

37 C.F.R. § 1.4(c) sets forth, *in toto*:

Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order **must** (emphasis added) be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

37 C.F.R. § 1.8 sets forth, *in pertinent part*:

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

⁵ See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

⁶ See In re Mattullah, 38 App. D.C. 497 (D.C. Cir. 1912).

⁷ In re Mattullah, 38 App. D.C. at (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

⁸ Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

(1) Correspondence will be considered as being timely filed if:

- (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
 - (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
 - (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
- (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

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

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

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

37 C.F.R. § 1.134 sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135 sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last

action, or any related proceedings, will not operate to save the application from abandonment.

(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

M.P.E.P. § 601.03 sets forth, *in pertinent part*:

The required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made. Thus, the mere inclusion, in a paper being filed for another purpose, of an address which is different from the previously provided correspondence address, without mention of the fact that an address change is being made would not ordinarily be recognized or deemed as instructions to change the correspondence address on the file record (emphasis added).

ANALYSIS

With this petition, Petitioner has met the first two requirements of Rule 1.137(a). The fourth requirement is not applicable. Regarding the third requirement, it has not been established that the entire period of delay was unavoidable.

Petitioner has set forth that he failed to receive the non-final Office action of October 13, 2006. He has set forth that he placed a forwarding order with the USPS to forward all mail from an address in Connecticut, however it does not appear that he has indicated when this forwarding order was placed, when his move occurred, or where the forwarding order directed the USPS to send mail.

Petitioner has further indicated that he

notified the USPTO of my change of address in a response filed a few weeks before the October 13, 2006 office action, but this was ignored in the Oct 13th 2006 office action.⁹

Petitioner appears to be referring to the fact that the header that appears on the cover sheet that was submitted with the election of species on September 5, 2006 contains two addresses, along with the notation "Note Change of Address."

⁹ Petition, page 1.

It does not appear that the Office noticed this request for a change of address, due to the fact that the request was not made in a prominent manner. This is precisely the reason that M.P.E.P. § 601.03, reproduced above, recommends that any request to change the correspondence address should be made in prominent manner, and should not be merely included within a paper "being filed for another purpose."

Moreover, even if the Office had recognized this request to change the correspondence address, it could not have been entered, as the request was contained within another paper, in contravention to Rule 1.4(c).

Petitioner failed to receive the Office action of October 13, 2006, and first learned of the communication via Public Pair on or about April 7, 2007 - just 6 days prior to the expiration of the maximum extendable period for response. Petitioner deposited his election of species 5 days later, along with a three-month extension of time, with the USPS in Arlington, Virginia on April 12, 2007¹⁰. Petitioner did not place a certificate of mailing on the submission, which was received on April 16, 2007.

Since the paper was received subsequent to the maximum extendable period for response, the petition for an extension of time could not have been granted. Consequently, this response could not have been accepted, since the application went abandoned by operation of law on January 14, 2007.

An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply¹¹. Accordingly, since the \$ 510 extension of time submitted with the election of species on April 16, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded via the mailing of a Treasury Check in due course.

Petitioner has set forth that the entire period of delay was unavoidable, due to the fact that he submitted the extension fees, he had a certified mail receipt from the USPS¹², and due to the close proximity of Arlington to Alexandria, he had a "reasonable basis to expect the response to be delivered the next day on April 13, 2007¹³."

10 Petition of October 1, 2007, page 2.

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

12 The certified mail receipt is dated April 12, 2007, and was included with the petition of October 1, 2007.

13 Petition, Page 2.

Regarding the petition for an extension of time, this matter has been addressed in this decision. Regarding the certified mail receipt, Rule § 1.8(a) indicates that the actual date of receipt in the Office is what determines whether a particular piece of correspondence was timely filed (if a certificate of mailing is not placed on the correspondence). See page 4 of the decision of October 26, 2007. Regarding the expectation as to the time it would take the USPS to deliver this response, this matter was addressed on page 4 of the decision of October 26, 2007.

As set forth above, when determining whether an entire period of delay was unavoidable, the general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"

In this case, it does not appear that Petitioner acted as a reasonable and prudent person in relation to his most important business. A reasonable and prudent person, acting in relation to his most important business, would have submitted a change of correspondence address in accordance with 37 C.F.R. § 1.4(c) and M.P.E.P. § 601.03, and would have placed a certificate of mailing on his response to the Office.

CONCLUSION

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

Alternatively, Petitioner may wish to submit a petition pursuant to Rule 1.137(b), which carries with it a much lower standard that a petition that is filed pursuant to 37 C.F.R. § 1.137(a).

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail¹⁴, hand-delivery¹⁵, or facsimile¹⁶.

14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

15 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

16 (571) 273-8300- please note this is a central facsimile number.

Decision on Renewed Petition Pursuant to 37 C.F.R. § 1.181

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web¹⁷.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225¹⁸. 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

¹⁷ <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

¹⁸ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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United States Patent and Trademark Office
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Paper No.

John Choate
PO Box 9949
Arlington VA 22219-1949

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of	:	
John I. M. Choate	:	
Application No. 10/780,476	:	DECISION ON PETITION
Filing Date: February 16, 2004	:	PURSUANT TO
Title: APPARATUS THAT IMPROVES	:	37 C.F.R. § 1.137(B)
DISCOVERY OF CANCER MASS, AND	:	
REDUCES INFLAMMATION - ONSET OF	:	
SYMPTOMS OF CARPAL TUNNEL	:	
SYNDROME OR ARTHRITIS - TACTILE	:	
DEFICIT OF FINGERS, AND	:	
INCREASES DISCOVERY OF FOREIGN	:	
MASS IN BREAST AND OTHER SELF	:	
EXAMINATIONS	:	

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

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 13, 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 January 14, 2007. A notice of abandonment was mailed on September 12, 2007.

Procedural History

A petition pursuant to 37 C.F.R. § 1.183 was filed on April 16, 2007, which was dismissed via the mailing of a decision on August 6, 2007 for failure to include the required petition fee.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on October 1, 2007, and was dismissed via the mailing of a decision on October 26, 2007. A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on December 14, 2007, and was dismissed via the mailing of a decision on February 19, 2008.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on March 3, 2008, and was dismissed via the mailing of a decision on March 28, 2008.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.4(d)(2) sets forth, *in toto*:

S-signature. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1). An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature not covered by a handwritten signature of § 1.4(d)(1). Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the Office electronic filing system as an attachment as provided in § 1.6(a)(4), for a patent application, patent, or a reexamination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) of this section are as follows.

(i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and **the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./)** (emphasis added); and

(ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

37 C.F.R. § 10.18(a) sets forth, *in toto*:

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, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

ANALYSIS

Receipt of the petition fee is acknowledged.

Petitioner typed the words "Signed John Choate" at the end of this petition, and signed the attached certificate of facsimile transmission. As such, it appears that Petitioner attempted to include an electronic signature with this petition.

The electronic signature that appears on bottom of this petition was not executed properly, as it does not contain forward slash marks, as is required by 37 C.F.R. § 1.4(d)(2)(i). Due to the fact that the signature on this paper does not contain an electronic signature that can be accepted, this submission is being treated as though it was not signed.

Since the Office is treating the statement of facts as a paper that has been submitted without a signature, this submission cannot be accepted, pursuant to Rule 10.18(a). See also 37 C.F.R. § 1.4 and M.P.E.P. § 502.02.

CONCLUSION

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

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail¹, hand-delivery², or facsimile³. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁴.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁵. 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

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 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

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



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Paper No.

John Choate
PO Box 9949
Arlington VA 22219-1949

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NOV 07 2008

OFFICE OF PETITIONS

In re Application of :
John I. M. Choate :
Application No. 10/780,476 : DECISION ON RENEWED PETITION
Filing Date: February 16, 2004 : PURSUANT TO
Title: APPARATUS THAT IMPROVES : 37 C.F.R. § 1.137(B)
DISCOVERY OF CANCER MASS, AND :
REDUCES INFLAMMATION - ONSET OF :
SYMPTOMS OF CARPAL TUNNEL :
SYNDROME OR ARTHRITIS - TACTILE :
DEFICIT OF FINGERS, AND :
INCREASES DISCOVERY OF FOREIGN :
MASS IN BREAST AND OTHER SELF :
EXAMINATIONS :

This is a decision on the renewed petition filed May 20, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

This renewed petition is **GRANTED**.

It is noted that this renewed petition pursuant to 37 C.F.R. § 1.137(b) has been properly executed.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 13, 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 January 14, 2007. A notice of abandonment was mailed on September 12, 2007.

Procedural History

A petition pursuant to 37 C.F.R. § 1.183 was filed on April 16, 2007, which was dismissed via the mailing of a decision on August 6, 2007 for failure to include the required petition fee.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on October 1, 2007, and was dismissed via the mailing of a decision on October 26, 2007. A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on December 14, 2007, and was dismissed via the mailing of a decision on February 19, 2008.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on March 3, 2008, and was dismissed via the mailing of a decision on March 28, 2008.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on April 7, 2008, and was dismissed via the mailing of a decision on May 12, 2008.

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

The required reply was received on April 16, 2007. The petition fee was included with the original petition pursuant to 37 C.F.R. § 1.137(b). With this renewed petition pursuant to 37 C.F.R. § 1.137(b), Petitioner has included the required statement of unintentional delay.

Petitioner has met requirements (1) - (3) of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on April 16, 2007 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.¹ 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

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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MAR 11 2005

OFFICE OF PETITIONS

Attn: Jeffrey A. Proehl
Leonard & Proehl, Prof. L.L.C.
3500 S. First Avenue Circle
Suite 250
Sioux Falls, SD 57105-5807

In re Application of :
Clyde R. Fredrickson, et al. :
Application No. 10/780,477 : **DECISION GRANTING PETITION**
Filed: February 17, 2004 : **UNDER 37 CFR 1.137(b)**
Attorney Docket No. 23-0685 :

This is a decision on the petition, filed February 18, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 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.

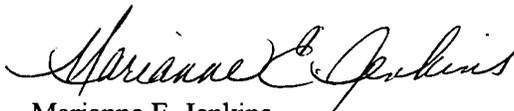
The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 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 of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on January 25, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, a Notice of Publication Fee Due is being mailed under separate cover since the nonpublication request has been rescinded. Petitioner should note that payment of the publication fee must be submitted within the period set forth in the Notice to avoid abandonment of the application.

This application is being forwarded to Publishing Division to await a reply to the Notice of Publication Fee Due mailed March 11, 2005.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.



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



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HOFFMAN WARNICK LLC
75 STATE ST
14 FL
ALBANY, NY 12207

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FEB 05 2009

OFFICE OF PETITIONS

In re Application of :
Ravinder Prakash :
Application No. 10/780,485 : DECISION GRANTING PETITION
Filed: February 17, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CHA920030036US1 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 3, 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 October 31, 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 undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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



WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of DellaMorte, Sr. et al. :
Application No. 10/780,501 : Decision on Petition
Filing Date: February 17, 2004 :
Attorney Docket No. DLGHY-026XX :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 2, 2007, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on August 3, 2007. A Notice of Abandonment was mailed on December 12, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of \$1,540. Petitioner has submitted a reply to the non-final Office action. Petitioner has stated 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 has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition was filed by the former attorneys of record. The petition indicated an extension of time fee of \$1,050 should be charged to deposit account no. 03-1237. The fee was charged to the deposit account on February 13, 2008. Payment for an extension of time is unnecessary when reviving an application. Therefore, the sum of \$1,050 has been credited back to deposit account no. 03-1237.

Technology Center Art Unit 2614 will be informed of the instant decision and the application will be further examined in due course.

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

A handwritten signature in black ink, appearing to read "Charles Steven Brantley". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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

WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 06/28/2010

Applicant	: Ronald van Haalen	: DECISION ON REQUEST FOR
Patent Number	: 7636774	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/780,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1710** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 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
10/780,529	02/17/2004	2812	1594	9180-30	5	49	5

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

CONFIRMATION NO. 1502

UPDATED FILING RECEIPT



OC000000013207886

Date Mailed: 07/13/2004

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

Applicant(s)

Jong-Rong Jan, Hualian Hsien, TAIWAN;
 Tsai-Hua Lu, Hisn-Chu City, TAIWAN;
 Sao-Ling Chiu, Hisn-Chu City, TAIWAN;
 Ling-Chen Kung, Hisn-Chu City, TAIWAN;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/448,096 02/18/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/10/2004

Projected Publication Date: 10/21/2004

Non-Publication Request: No

Early Publication Request: No

Title

Methods of selectively bumping integrated circuit substrates and related structures

Preliminary Class

438

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

GRANTED

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

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

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

NOT GRANTED

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



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

MAR 16 2006

SYLMARK, INC.
4929 WILSHIRE BLVD
SUITE 500
LOS ANGELES CA 90010

In re Application of :
Marsha Kent et al :
Serial No.: 10/780,530 : DECISION ON PETITION
Filed: February 17, 2004 :
For: Light Therapy Device :

This is in response to the petition applicant filed on February 17, 2006 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact Frederick R. 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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PERKINS COIE LLP/MSFT
P.O. BOX 1247
SEATTLE, WA 98111-1247

COPY MAILED

JAN 12 2009

In re Application of :
Michael P. Crider et al :
Application No. 10/780,547 : **ON PETITION**
Filed: February 17, 2004 :
Attorney Docket No. 418268006US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 14, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810 and the submission required by 37 CFR 1.114; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2176 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.


Irvin Dingle
Petition Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,445,088 :
Watanabe, et al. : DECISION ON
Issue Date: November 4, 2008 : REQUEST FOR RECONSIDERATION
Application No. 10/780,587 : OF
Filed: February 19, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 023971-0377 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed December 22, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred fifty-three (453) days to eight hundred sixty-seven (867) days.

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

On November 4, 2008, the above-identified application matured into U.S. Patent No. 7,445,088 with a patent term adjustment of 453 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 a 414 day period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), does not overlap with the period of adjustment due to

examination delay, pursuant to 37 CFR §1.702(a), of 582 days, because these periods do not occur on the same day.

The 414 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on February 19, 2004, and a request for continued examination (RCE) having been filed in this application on April 8, 2008, three years and 414 days later. Patentees assert that in addition to this 414 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 582 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 November 22, 2006, 14 months and 582 days after the application was filed on February 19, 2004.

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 129 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 (414 days) and the period of Examination Delay (582 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 996 days, which is the sum of the period of Three Year Delay (414 days) and the period of Examination Delay (582 days), reduced by the period of overlap (0 days, per patentees' calculation).

As such, patentees assert entitlement to a patent term adjustment of 867 days (414 + 582 reduced by 0 overlap - 129 (applicant delay)).

The Office agrees that as of the filing of the RCE on April 8, 2008, the application was pending 3 years and 414 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 582 days is correct. At issue is whether patentees should accrue 414 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 582 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 414 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. S14,718¹

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, February 19, 2004, as terminated by the filing of the RCE on April 8, 2008. 582 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 414 days for Office delay in issuing the patent overlap with the 582 days of Office delay. During that time, the issuance of the patent was delayed by 582 days, not 582 + 414 days. The Office took 14 months and 582 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 582 days of Office delay and the

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

129 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 414 days. The Office did not delay 582 days and then an additional 414 days.

Accordingly, 0 days of patent term adjustment was properly entered for the Office taking in excess of 3 years to issue the patent, since the period of delay of 414 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 582 days attributable to ground specified in § 1.702(a)(1).

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 453 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.

Christina Lartera Donnell for

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/780,601	02/19/2004	Ching-Hsiang Hsu	001409.00011

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

CONFIRMATION NO.
3910

Date Mailed: April 6, 2004

Decision Granting Petition under 37 CFR 1.138(c)
The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(c) that was filed on February 24, 2004, express abandonment to avoid publication of the above-identified application.

The petition is granted.

The express abandonment is recognized and the application has been withdrawn from publication.

A notice of abandonment will be mailed in due course.

Telephone inquiries should be directed to the Office of Patent Publication, the Pre-Grant Publication Division, at 703-605-4283.

Barbara J. Debnam
Pre-Grant Publication Division
Office of Patent Publication

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/14/2006

TO SPE OF : ART UNIT 2800 (2891)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,982,220

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

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** - Tel. No. 305-8309

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

*Ok to add two references from IDS 2/21/2006?

Ernest C. White, LIE (703) 308-9390x122

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

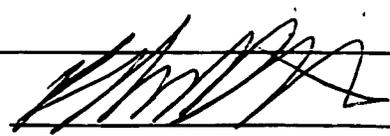
Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

B. WILLIAM BAUMEISTER
SUPERVISOR PATENT EXAMINER
TECHNOLOGY CENTER 2800



SPE

2891

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090622

DATE : June 22, 2009

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7406070

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:

/Dwayne Bost/
Supervisory Patent Examiner.Art Unit 2617



ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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FEB 15 2008

OFFICE OF PETITIONS

In re Application of :
Chen-Hsien Liao et al. : **DECISION ON PETITION**
Application No. 10/780,702 :
Filed: February 19, 2004 :
Attorney Docket No. **025789-00005** :

This is a decision on the petition filed February 4, 2008 to withdraw the holding of abandonment which is being treated under 37 C.F.R. § 1.181 & MPEP § 1002.02(c)(3)(c).

The petition is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within TWO (2) MONTHS of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under § 1.136(a) are not permitted.

Petitioner is not precluded from filing a petition to revive pursuant to 37 CFR 1.137.

In response to a Notice of Allowance mailed August 6, 2007, the issue fee transmittal was proffered on November 1, 2007 with an authorization to charge the issue fee in the amount of \$1400 and the publication fee in the amount of \$300 to deposit account no. 01-2300. Petitioner argues that the Notice of Abandonment sent via e-mail notification on January 31, 2008 was sent in error and includes a copy of the post card receipt, date stamped by the USPTO on November 1, 2007 as proof of timely payment of the issue fee.

A review of the file reveals that the issue fee transmittal was timely filed, however, at the time the issue fee transmittal was filed, the balance of petitioner's deposit account no. 01-2300 was only \$560.00. Thus, the Notice of Abandonment was correct. The issue fee was not timely paid and in view thereof, the showing of record is insufficient to warrant withdrawal of the holding of abandonment.

Additionally, in submitting a petition to revive, petitioner should be mindful of the

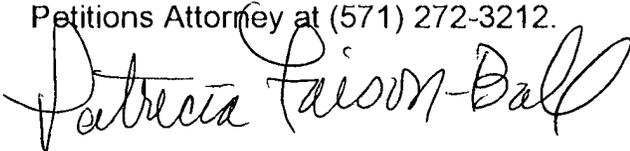
current FY 2008 fee schedule which went into effect on September 30, 2008.

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

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

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

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

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

COPY MAILED
MAY 07 2008
OFFICE OF PETITIONS

In re Application of :
Chen-Hsien Liao et al. : **DECISION ON PETITION**
Application No. 10/780,702 :
Filed: February 19, 2004 :
Attorney Docket No. **025789-00005** :

This is a decision on the petition filed April 14, 2008 under 37 CFR 1.137(b),¹ to revive the above-identified application.

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

This application became abandoned November 7, 2007 for failure to timely pay the issue fee on or before November 6, 2007. Accordingly, a Notice of Abandonment was mailed December 3, 2007.

The issue fee in the amount of \$1440.00 and the publication fee in the amount of \$300 have been charged to petitioner's deposit account. The petition fee in the amount of \$1540.00 has been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : April 17, 2007

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.: 10/780 715

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:



P. AUSTIN BRADLEY

SUPERVISORY PATENT EXAMINER

SPE: _____ TECHNOLOGY CENTER 2800 Art Unit 2833

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,899,555 B2

DATED : May 31, 2005

INVENTOR(S) : Nagata et al.

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

Please make the following corrections in the claims:

Claim 1, column 14, line 36, the word "being" should be changed to "and"

Claim 3, column 14, line 28, the number "3" should be deleted

Claim 8, column 15, line 22, the number "3" should be deleted

Claim 8, column 16, line 1, the word "being" should be changed to "and"

Mailing address of sender:

Attn: Felix J. D'Ambrosio
Bacon & Thomas, PLLC
625 Slaters Lane 4th Floor
Alexandria, Va. 22314
TEL (703) 683-0500
FAX (703) 683-1080

Patent No. 6,899,555 B2

No. of add'l copies
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MAR 28 2007



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

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OFFICE OF PETITIONS

In re Patent No. 7,442,454
Issued: October 28, 2008
Application No. 10/780,767
Filed: February 19, 2004
Attorney Docket No. 040302-0383

:
: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:
:
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed November 17, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred fifty-eight (458) days to seven hundred ten (710) days.

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

On October 28, 2008, the above-identified application matured into US Patent No. 7,442,454 with a patent term adjustment of 458 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 710 days, which includes 252 days of patent term adjustment due to exceeding three year pendency and 566 days due to USPTO delay in prosecution."

The 252-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 19, 2004, and the RCE being filed on October 29, 2007, three years and 252 days later. Patentees assert that in addition to this 252-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 566 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 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 108 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (252 days) and the period of Examination Delay (566 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 818 days, which is the sum of the period of Three Year Delay (252 days) and the period of Examination Delay (566 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 710 days (566 + 252 reduced by 0 overlap – 108 applicant delay)).

The Office agrees that as of the filing of the RCE on October 29, 2007, the application was pending three years and 252 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 566 days is correct. At issue is whether patentees should accrue 252 days of patent term adjustment for the Office taking in excess of three years to issue the patent under 37 CFR 1.702(b), as well as 566 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 252 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment

granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718¹

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

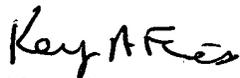
In this instance, the relevant period under 35 U.S.C. 154(b) (1) (B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b) (2) (A) is the entire period during which the application was pending before the Office until the filing of the RCE, February 19, 2004 to October 29, 2007. During that time, the issuance of the patent was delayed by 566 days, not 566 + 252 days. The Office took 14 months and 566 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 566 days of Office delay and the 108 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time of filing of the RCE, the application was pending three years and 252 days until the filing of the RCE. The Office did not delay 566 days and then an additional 252 days. Accordingly, 566 days of patent term adjustment (not 566 and 252 days) was properly entered since the period of delay of 252 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 566 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 566 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 252 days over three years.

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).

Accordingly, at issuance, the Office properly entered no additional days of patent term pursuant to 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.



Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy



FOLEY AND LARDNER LLP
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WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Patent No. 7,442,454
Issued: October 28, 2008
Application No. 10/780,767
Filed: February 19, 2004
Attorney Docket No. 040302-0383

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF DISMISSAL filed on October 2, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 458 days to 710 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred nine (709) 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 19, 2007 and ends on October 28, 2007, the day before the RCE was filed, the B delay is 251 (not 252) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 709, not 710 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 **seven hundred nine (709)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT
UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,442,454 B2

DATED : March 31, 2009

INVENTOR(S) : Keisuke Wakabayashi

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 (458) days

Delete the phrase "by 458 days" and insert – by 709 days--



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SUITE 370
ALEXANDRIA VA 22314

MAIL

APR 18 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Shimada, et al.
Application No. 10/780,772
Filed: February 19, 2004
For: STORAGE HAVING LOGICAL
PARTITIONING CAPABILITY AND SYSTEM
WHICH INCLUDE THE STORAGE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed November 30, 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 30, 2004 fails to adequately meet requirement (e) of the criteria set forth above. With respect to requirement (e), petitioner must provide a detailed discussion of the reference documents. In the discussion of many of the references, for example see the discussion of Shimura (5,210,844), the petitioner indicates that the reference fails to teach the present invention, including a supervising terminal connected to the storage, so that the storage logically partitions a plurality of interfaces, a plurality of disk drives, and a control unit on the basis of information to be inputted to the supervising terminal; however, the features are not set forth in claims 1 or 18. Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** is specifically distinguishable and patentable from the references provided in requirement (d) above. The statement that the references shares the same deficiencies as another reference is not sufficient to meet the requirement of a detailed discussion as required by 37 CFR 1.111 (b) and (c).

The submission does not satisfy the requirement, as it does not provide a **detailed discussion** of the references and it does not point out how the **claimed subject matter is patentable over the references**. Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.


Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/13/05



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JUL 20 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

In re Application of: SHIMADA et al.
Application No. 10/780,772
Filed: February 19, 2004
For: STORAGE HAVING LOGICAL
PARTITIONING CAPABILITY AND
SYSTEM WHICH INCLUDE THE STORAGE

**DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P. §708.02(VIII)**

This is a response to the resubmitted petition filed June 20, 2005, on Applicant's petition to make special under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, originally filed on November 30, 2004 and dismissed in the decision mailed on 4/18/05.

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

Application SN 10/780,772
Decision on Petition

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.



Brian L. Johnson
Special Program Examiner 7/15/05
Technology Center 2100
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571-272-3595



AWK



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JUN 05 2009

OFFICE OF PETITIONS

In re Application of :
Shirakawa, et al. : LETTER REGARDING PTA
Application No. 10/780,774 :
Filed: February 19, 2004 :
Atty. Dkt. No.: 023971-0374 :

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE," filed January 21, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed December 16, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 422 days. Applicants indicate that the correct adjustment is 421 days. Applicants indicate that a response to the final Office action dated July 25, 2008 was submitted October 27, 2008, which results in a reduction of two days, rather than the one day accorded by the Office.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 421 days, as asserted by applicants.

At issue is the reduction in connection with the amendment filed October 27, 2008 in response to the final Office action mailed July 25, 2008. In accordance with 37 CFR 1.704(b), the adjustment of 509 days is properly reduced two days, rather than the one day reflected in the Determination of Patent Term Adjustment mailed December 16, 2008. The reduction commenced October 26, 2008, the day after the date that is three months after the date that the final Office action was mailed, and ended October 27, 2008, the date that a response thereto was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 421 days (adjustment totalling 509 less reductions totalling 88 days), as indicated by applicants.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

PTA Calculations for Application: 10/780774

Application Filing Date:	02/19/2004	PTO Delay (PTO):	509
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	87
Post-Issue Petitions:	0	Total PTA (days):	421
PTO Delay Adjustment:	-1		

File Contents History

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63	12/15/2008	ISSUE REVISION COMPLETED			
62	12/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
61	12/15/2008	EXAMINER'S AMENDMENT COMMUNICATION			
60	12/15/2008	DOCUMENT VERIFICATION			
59	12/08/2008	NOTICE OF ALLOWABILITY			
55	11/22/2008	DATE FORWARDED TO EXAMINER			
54	10/26/2008	AMENDMENT AFTER FINAL REJECTION		1	51
53	10/23/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
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48	01/04/2008	RESPONSE AFTER NON-FINAL ACTION		30	46
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46	09/05/2007	MAIL NON-FINAL REJECTION			
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41	03/05/2007	NON-FINAL REJECTION			
40	03/05/2007	DATE FORWARDED TO EXAMINER			
		AMENDMENT SUBMITTED/ENTERED WITH			

39	02/22/2007	FILING OF CPA/RCE			
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36	03/05/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
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26	09/19/2006	RESPONSE AFTER NON-FINAL ACTION			
25	09/06/2006	REFERENCE CAPTURE ON IDS			
24.7	09/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/06/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	06/20/2006	MAIL NON-FINAL REJECTION	427		-1
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21	02/01/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	04/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
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18.7	02/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	02/01/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	04/27/2005	REFERENCE CAPTURE ON IDS			
16.7	04/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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15	09/21/2004	CASE DOCKETED TO EXAMINER IN GAU			

14	05/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
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Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

In re Application of	:	
Robert J. Hunter	:	
Application No. 10/780,777	:	DECISION ON PETITION
Filed: February 17, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. R029.1065.1	:	

This is a decision on the petition, filed May 25, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 7, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

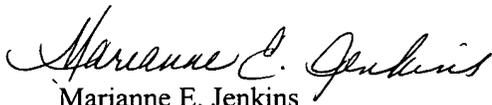
- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 5, 2006 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

This application is being referred to Technology Center Art Unit 1734 for examination in due course.



Marianne E. Jenkins
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DW Feb-07

GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

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FEB 28 2007

OFFICE OF PETITIONS

In re Application of :
Richard DeGreef :
Application No. 10/780,780 : DECISION ON PETITION
Filed: 18 February, 2004 :
For: SEWER GRATE LOCKING :
MECHANISM AND METHOD OF :
INSTALLING SAME :

This is a decision on the petition filed on 28 August, 2006,
under 37 CFR 1.137(b),¹ to revive the above-identified
application.

The petition is **GRANTED**.

The application became abandoned on 4 August, 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 May, 2006,

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).

which set a three (3) month statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

This application is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: R. SCOTT WEIDE
WEIDE & MILLER, LTD.
BANK WEST BUILDING, 5TH FLOOR
7251 WEST LAKE MEAD BLVD., SUITE 530
LAS VEGAS NV 89128



**MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW, L.L.C.
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD , SUITE 1400
ATLANTA GA 30339**

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JAN 31 2008

OFFICE OF PETITIONS

In re Application of
Ben Lee
Application No. 10/780,793
Filed: February 18, 2004
Attorney Docket No. 21400-RA

:
:
:
:
:
:

**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 28, 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 there remain less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on August 9, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Ben Lee/Sportman's View
4062 Hickory Fairway Drive
Woodstock, GA 30188**



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103 SOUTH SHAFFER DRIVE
NEW FREEDOM, PA 17349

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AUG 19 2005

OFFICE OF PETITIONS

In re Application of :
Laurence J. Ayling :
Application No. 10/780,796 :
Filed: February 18, 2004 :
Attorney Docket No. AYL-1-CONT-2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 7, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight on January 7, 2005.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of \$1500; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

The application matter is being referred to Technology Center 3600, Art Unit 3672 for further processing.

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



BARTLETT & SHERER
103 SOUTH SHAFFER DRIVE
NEW FREEDOM, PA 17349

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MAY 18 2007

In re Application of :
Lawrence J. Ayling :
Application No. 10/780,796 :
Filed: February 18, 2004 :
Attorney Docket No. AYL-1-Cont-2 :

**OFFICE OF PETITIONS
DECISION
ON PETITION**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 22, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 22, 2006. Accordingly, the date of abandonment of this application is September 23, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 2.

The petition does not satisfy the requirements of 37 CFR 1.137(b) in that petitioner has not 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. Although an attempt was made to pay said fees, the fees were returned on January 30, 2007 for a bounced check and the attorney's deposit account 50-0765 does not have sufficient funds to cover the fees quoted above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the April Wise at (571) 272-1642.


Irvin Dingle
Petitions Examiner
Office of Petitions



BARTLETT & SHERER
103 SOUTH SHAFFER DRIVE
NEW FREEDOM, PA 17349

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SEP 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Lawrence J. Ayling	:	
Application No. 10/780,796	:	DECISION ON PETITION
Filed: February 18, 2004	:	
Attorney Docket No. AYL-1-Cont-2	:	

CORRECTED DECISION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 22, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 22, 2006. Accordingly, the date of abandonment of this application is September 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

The decision mailed May 18, 2007 is hereby vacated as of the mailing date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.


 April M. Wise
 Petitions Examiner
 Office of Petitions



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DEC 20 2007

In re Application of	:	OFFICE OF PETITIONS
Laurence J. Ayling	:	
Application No. 10/780,796	:	DECISION ON PETITION
Filed: February 18, 2004	:	
Attorney Docket No. AYL-1-CONT-2	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before September 22, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 22, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 23, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1400 and the publication fee of \$300, (2) the petition fee of \$1500; (3) the bounced check fee \$50 (4) the extension of time fee \$450 and (5) a proper statement of unintentional delay.

The corrected decision mailed September 7, 2007 was mailed in error; therefore it is hereby vacated as of the mailing date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Mail Date: 04/21/2010

Applicant : David Munn : DECISION ON REQUEST FOR
Patent Number : 7598287 : RECALCULATION of PATENT
Issue Date : 10/06/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/780,797 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/17/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1218** 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.



Paper No. ___

HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

COPY MAILED

In re Application of :
Zabara :
Application No. 10/780,806 :
Filed: 18 February, 2004 :
Attorney Docket No.: 200477.00002 :

NOV 25 2005

**OFFICE OF PETITIONS
ON PETITION**

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed 20 June, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119 for the benefit of priority to Application No. 60/533,656, filed 30 December, 2003.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed provisional application was made within the time period set forth in 37 C.F.R. §1.78(a)(5)(ii) and further failed to include a proper reference to the above-noted, prior-filed application as required by 37 C.F.R. §1.78(a)(5)(i) and §1.78(a)(5)(iii).

The instant application was filed 18 February, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 C.F.R. §1.78(a)(6) is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed provisional application.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(6) must be accompanied by:

- the reference required by 35 U.S.C. §119(e) and 37 C.F.R. §1.78(a)(5)(i) of the prior-filed application, unless previously submitted;¹

Application No. 10/780,806

- a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition satisfied the requirements above.

The granting of a petition to accept the delayed benefit claim to the prior-filed application(s) under 37 C.F.R. §1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application(s). In order for the instant application to be entitled to the benefit of the prior-filed application(s), all other requirements under the statute and regulation must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision includes the prior-filed application(s) should not be construed as meaning that the applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly the Examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed provisional application, accompanies this decision on petition.

This matter is being released to the Technology Center for examination in due course, including consideration of the claim for priority.

Inquiries concerning this decision may be directed to John Gillon, Senior Attorney, Office of Petitions at (571) 272-3214.



Frances Hicks
Petitions Examiner
Office of Petitions

Encl.: Corrected Filing Receipt

¹ Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate.



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Paper No. None

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LA JOLLA CA 92038

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of :
Joseph Florian :
Application No. 10/780,813 : DECISION ON PETITION
Filed: February 17, 2004 : UNDER 37 C.F.R. §§ 1.181(A)
Attorney Docket No.: 263.1 :
Title: OPTICAL IN-VIVO :
MONITORING SYSTEMS :

This is a decision on the "notice of mailing under 37 CFR §1.8(b)," which is properly treated as a petition filed on January 22, 2007, pursuant to 37 C.F.R. § 1.181(a).

For future reference, Petitioner should consider clearly labeling such a submission as a petition under Rule §1.181, so that the filing may be properly routed to the Office of Petitions for consideration.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 2004, which set a shortened statutory period for reply of two 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 13, 2004. A notice of abandonment was mailed on February 9, 2005.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

M.P.E.P. § 503 sets forth, in pertinent part:

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. >Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to the address provided on the postcard, and, if returned to the USPTO,, may be discarded.

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.

ANALYSIS

With the present petition, Petitioner has effectively alleged that the holding of abandonment should be withdrawn because a response to the notice was purportedly timely filed. Petitioner has not set forth on what date this response was purportedly submitted to the Office, but has indicated that a copy of the "mailing certificate" was enclosed with the present petition.

Petitioner has included a copy of a paper entitled "Missing Parts Response," along with a Fee Transmittal Sheet and a paper entitled "Deposit Account General Authorization." Each of these items is dated June 15, 2004, and neither appears to contain a certificate of mailing. Petitioner has further included a copy of a check in the amount of \$450 that is dated June 15, 2004.

It appears that Petitioner has attempted to assert that each of these items was submitted to the Office on June 15, 2004.

The electronic file has been reviewed, and the original papers have not been located. Furthermore, Office records do not indicate the receipt of \$450 on or about June 15, 2004. A copy of the "mailing certificate" has not been located either.

37 C.F.R. §1.8 and M.P.E.P. §503 set forth procedures which may be undertaken by applicants, in order to provide relief and secure the withdrawal of a holding of abandonment in situations where a communication is mailed to the Office and either not received or misplaced within the same.

Petitioner has included copies of the papers that were purportedly submitted to the Office on June 15, 2004, and neither appears to contain a certificate of mailing. Moreover, it does not appear that a postcard receipt has been provided with this petition.

It follows that the showing in the present petition is not sufficient to withdraw the holding of abandonment. Pursuant to the discussion above, the petition pursuant to 37 C.F.R. §1.181 must be DISMISSED.

Furthermore, it is noted that almost two years passed between the mailing of the notice of abandonment and the filing of the present petition.

It is not clear why the Applicant chose to take no course of action for such a long period of time. It does not appear that the Applicant took any action to further the prosecution of this application. It is equally unclear what, *after all of this time*, prompted the Applicant to advance the prosecution of this application. As such, it appears that Applicant intentionally

allowed this application to stay abandoned for such a long period of time. Any subsequent filing must address both Applicant's extended period of inaction as well as the decision to file this petition after two years had passed, and must include a statement of facts from one having firsthand knowledge of the facts set forth therein.

It is noted in passing that the copy of the check has been reviewed, and it does not appear to contain an identifier that would associate it with the present application, such as an application number or an attorney docket number.

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail¹, hand-delivery², or facsimile³. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web⁴.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b). Petitioner may download information about these petitions here:

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Telephone inquiries regarding *this decision* should be directed

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 <https://portal.uspto.gov/authenticate/authenticateuserlocalepf.html>

to the undersigned at (571) 272-3225⁵. 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

⁵ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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OFFICE OF PETITIONS

In re Application of :
Joseph Florian :
Application No. 10/780,813 : DECISION ON RENEWED PETITION
Filed: February 17, 2004 : UNDER 37 C.F.R. § 1.181(A)
Attorney Docket No.: 263.1 :
Title: OPTICAL IN-VIVO :
MONITORING SYSTEMS :

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed on November 1, 2007.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 12, 2004, which set a shortened statutory period for reply of two 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 13, 2004. A notice of abandonment was mailed on February 9, 2005.

An original petition was filed on January 22, 2007, and was dismissed via the mailing of a decision on August 6, 2007.

ANALYSIS

With the original petition, Petitioner asserted that the holding of abandonment should be withdrawn because a response to the notice was purportedly timely filed. With this renewed petition, Petitioner has set forth that this response was submitted on June 15, 2004. Petitioner has also submitted a certificate of mailing which bears a date of June 15, 2004¹, as well as a one-month extension of time so as to make timely this response.

Consequently, Petitioner has met the requirements of 37 C.F.R. § 1.8.

CONCLUSION

It follows that this renewed petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is hereby **WITHDRAWN**.

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) 272-3225².



Paul Shanoski
Senior Attorney
Office of Petitions

1 With this renewed petition, Petitioner has asserted that this document was present in the electronic file prior to its submission concurrently with this renewed petition, and Petitioner has requested that the undersigned review the electronic file. The electronic file has been reviewed, and a copy of this document has not been located therein.

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.


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
10/780,882	02/19/2004	Karl Schreiber	2560-0421

Timothy J. Klima, Esq.
 Harbin King & Klima
 500 Ninth Street SE
 Washington, DC 20003

MAILED

MAR 22 2005

Director's Office
 Group 3700

CONFIRMATION NO. 9055



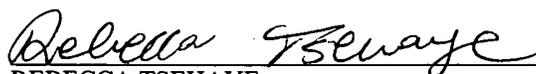
OC000000015528638

Date Mailed: 03/22/2005

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2004.

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.


 REBECCA TSEHAYE
 3700 (571) 272-3750

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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
10/780,882	02/19/2004	Karl Schreiber	2560-0421

Davidson Berquist Klima & Jackson, LLP
 Suite 920
 4501 North Fairfax Drive
 Arlington, VA 22203

MAILED

MAR 22 2005

Director's Office
 Group 3700

CONFIRMATION NO. 9055



OC000000015528606

Date Mailed: 03/22/2005

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2004.

- 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.

Rebecca Tsehaye

REBECCA TSEHAYE
 3700 (571) 272-3750

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

COPY MAILED

JUN 05 2006

OFFICE OF PETITIONS

In re Application of	:	
Akihiko Ito et al.	:	
Application No. 10/780,893	:	DECISION ON PETITION UNDER
Filed: February 19, 2004	:	37 C.F.R. §1.137(B)
Attorney Docket Number: 24-012-	:	
TB	:	
Title: INSERT AND ELECTRONIC	:	
COMPONENT HANDLING APPARATUS	:	
COMPRISING THE SAME	:	

This is a decision on the petition filed April 13, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 17, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 18, 2005.

The petition erroneously indicates that the present application was accorded a filing date of February 19, 2003. The Office will presume this to be a typographical error.

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition was received on April 13, 2006, along with the petition fee, an amendment, and the proper statement of unintentional delay. No terminal disclaimer is required.

As such, the petition is **GRANTED**.

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 concurrently submitted amendment can be processed.

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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office



03 APR 2008

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

In re Application of :
ITO et al. :
Application No. 10/780,893 : DECISION ON PETITION
Filed: 19 February 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 24-012-TB :

This is a decision on Petitioner's request to confirm acceptance of earlier claim for domestic priority under 35 U.S.C. 120 and 365(c) and in the alternative, the petition under 37 CFR 1.78(a)(3), filed 10 September 2007, 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/JP02/08378 filed on 20 August 2002.

The application file has been reviewed, and it is concluded that applicant failed to timely make a proper benefit claim to PCT Application No. PCT/JP02/08378 in accordance with 37 CFR 1.78(a).¹ Thus, the filing of a petition under 37 CFR 1.78(a)(3) is necessary. Such petition is hereby **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR

¹ While Form PTO/SB/05 included with the initial application submission identifies the present application as a continuation of the PCT application, such reference does not comply with 37 CFR 1.78 because the reference does not: 1) appear in the first sentence of the specification or in an application data sheet (1.78(a)(2)(iii)), and 2) include the international filing date (1.78(a)(2)(ii)). The domestic benefit claim to the international application was not included on the initial filing receipt.

1.78(a)(3) in that (1) a reference to the prior-filed international application has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forward to Technology Center 2800 for processing, as deemed appropriate, of the Application Data Sheet filed with the instant petition on 10 September 2007.



Boris Milef
Sr. PCT Legal Examiner
Office of PCT Legal Administration



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P.O. Box 1450
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STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

MAIL

JUL 3 0 2004

DIRECTOR OFFICE
: TECHNOLOGY CENTER 2600

:
: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
:
:

In re Application of
Hisao Koga, et al.
Application No. 10/780,898
Filed: February 19, 2004
For: **RECEIVING APPARATUS AND METHOD FOR
DIGITAL MULTI-CARRIER TRANSMISSION**

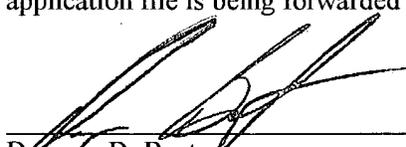
This is a decision on the petition filed June 7, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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. Applicant's deposit account has been charged the petition fee as requested on the first page of the petition. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.



Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FROM DIRECTORS OFFICE

SEP 22 2005

TECHNOLOGY CENTER 3800

Taser International, Inc.
17800 N. 85th Street
Scottsdale, AZ 85255-9603

In re Application of: : **DECISION ON PETITION**
Milan Cerovic : **TO MAKE SPECIAL**
Serial No. 10/780,914 : **(COUNTER TERRORISM)**
Filed: February 17, 2004 :
For: **WEAPON FOR LETHAL AND NON-LETHAL USES**

This is a decision on the petition filed January 4, 2005 under 37 CFR 1.102 (d) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

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); and (B) a statement explaining how the invention contributes to countering terrorism.

The petition states that the invention will contribute to countering terrorism by providing a weapon system that when utilized against a terrorist would render the terrorist immobilized for a given amount of time. This statement is a general conclusion and does not satisfy the requirement of explaining specifically how the invention contributes to countering terrorism. Also, the invention is not fully described. A general description of how it works (through electrical signals) is all that is provided.

Furthermore, petitioner's invention, based on the disclosure, deals more with civil law enforcement and military crowd control rather than counter terrorism. In fact, no mention of counter terrorism is set forth in applicant's disclosure. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, these examples all clearly act to directly and primarily counter terrorism. Thus, the tie to countering terrorism as argued by the applicant is not seen as being sufficient to accord special status to this application.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

For the above stated reasons, the petition is **DISMISSED**.



Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/js: 6/9/05


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 UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/780,943	02/18/2004	2835	770	10020936-1	6	13	2

CONFIRMATION NO. 2288
CORRECTED FILING RECEIPT


OC000000014046048

 AGILENT TECHNOLOGIES, INC.
 Legal Department, DL429
 Intellectual Property Administration
 P.O. Box 7599
 Loveland, CO 80537-0599

Date Mailed: 10/08/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

 Brett E. Bamesberger, Colorado Springs, CO;
 Victor W. Ramsey, Colorado Springs, CO;

Power of Attorney: The patent practitioners associated with Customer Number 022878.

Domestic Priority data as claimed by applicant
Foreign Applications
If Required, Foreign Filing License Granted: 05/13/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/780,943
Projected Publication Date: 08/18/2005

Non-Publication Request: No

Early Publication Request: No

Title

Low thermal stress composite heat sink assembly

Preliminary Class

361

**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).



AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland CO 80537-0599

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NOV 04 2004

OFFICE OF PETITIONS

In re Application of :
Bamesberger et al. : DECISION DISMISSING
Application No. 10/780,943 : PETITION AS MOOT
Filed: February 18, 2004 :
Attorney Docket No. 10020936-1 :

This is a decision on the petition under 37 CFR 1.10 filed on September 27, 2004, requesting that the above-identified application be accorded a filing date of February 18, 2004.

Petitioner alleges that the application was deposited in Express Mail service on February 18, 2004. In support, on September 27, 2004, petitioner supplied a copy of Express Mail receipt No. EV404893083US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file).

A review of the Office PALM records reveals that this application was previously accorded a filing date of February 18, 2004.

Therefore, the present petition is unnecessary and will be **dismissed as moot**.

The application is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of **February 18, 2004**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NICOLAS E. SECKEL
PATENT ATTORNEY
1250 CONNECTICUT AVENUE, NW SUITE 700
WASHINGTON, DC 20036

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Emmanuel Sedda et al :
Application No. 10/780,947 :
Filed: February 18, 2004 :
Attorney Docket No. PSA0301945 :

ON PETITION

This is a decision on the petition filed November 25, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed July 28, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 29, 2008.

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 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 Office of Data Management for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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C. AMY SMITH
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Erion et al.	:	DECISION ON PETITION
Application No. 10/780,948	:	TO WITHDRAW
Filed: February 17, 2004	:	FROM RECORD
Attorney Docket No. MET-016XDT	:	

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 5, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 21, 2006 the power of attorney to Paul, Hastings, Janofsky & Walker LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Saliwanchik Lloyd & Saliwanchik
A Professional Association
PO Box 142950
Gainesville FL 32614



MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY CA 94404

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AUG 22 2005

OFFICE OF PETITIONS

In re Application of :
Lau et al. :
Application No. 10/780,963 :
Filed: February 18, 2004 :
Attorney Docket No. 5118 US :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed on February 14, 2005, to change the order of inventorship.

The petition is **GRANTED**.

The order of the names of the inventors will be changed as follows:

1. Aldrich N.K. Lau
2. Michael P. Harrold

Petitioner has submitted \$130.00 towards the petition fee. However, the current petition fee is \$400.00. Accordingly deposit account 01-2213 will be charged the difference.

This application is being forwarded to the Technology Center 1600 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/13/08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10780987 Patent No.: 7332540

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.

You can fax the Directors/SPE response to 571-270-9990

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____

Formatted: Indent: Left: 1.22"

SPE Q. Wu Art Unit 1796



DILWORTH & BARRESE, LLP
333 EARLE OVINGTON BLVD.
UNIONDALE NY 11553

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AUG 27 2004

In re Application of
Hoermann
Application No. 10/781,016
Filed: February 18, 2004
Attorney Docket No. 298-228
For: CONTROLLED DRIVE FOR A
GARAGE DOOR SECTION OR THE LIKE

:
:
: DECISION GRANTING
: PETITION
:
:

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.53(e), filed July 16, 2004 (certificate of mailing date July 14, 2004), requesting that the above-identified application be accorded a filing date of February 18, 2004.

The application was deposited on February 18, 2004. On May 14, 2004, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on February 18, 2004 because no drawings were present, as is required by 35 USC 113. It is noted that the specification filed on February 18, 2004 describes drawing figures.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of February 18, 2004 on the basis that 2 sheets of drawing figures, depicting Figures 1-3, were received in the Patent and Trademark Office (PTO) on February 18, 2004. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing February 18, 2004 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 2 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 2 sheets of drawings were filed on February 18, 2004. MPEP 503. Accordingly, the request is granted. Pursuant to petitioner's authorization, deposit account no. 04-1121 will be credited the \$130 petition fee submitted with the instant petition.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **February 18, 2004**, using the copy of the 2 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 2 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712. After September 30, 2004, please call (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions



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YUKIKO IWATA
SHELL OIL COMPANY
LEGAL - INTELLECTUAL PROPERTY
P.O. BOX 2463
HOUSTON, TX 77252-2463

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AUG 23 2007

OFFICE OF PETITIONS

In re Application of
Yoshiharu Baba, et al.
Application No. 10/781,028
Filed: February 18, 2004
Attorney Docket No. TS8069 (US)

ON PETITION

This is a decision in response to the petition, filed April 3, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 3, 2007. On April 3, 2007, the present petition was filed.

The petition is not signed by an attorney of record in the application. However, in accordance with 37 CFR 1.34(a), the signature of Marcella D. Watkins appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

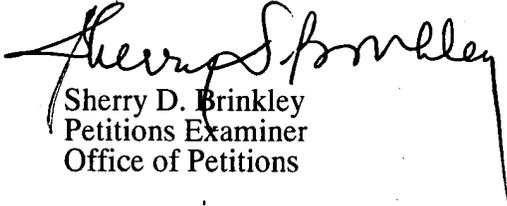
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the \$1,020 extension fees included with this petition.

Any request for refund must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 1714 for consideration of the amendment filed April 3, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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P O BOX 2938
MINNEAPOLIS, MN 55402-0938

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of :
Jerome M. Eldridge et al :
Application No. 10/781,035 : DECISION GRANTING PETITION
Filed: February 18, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1303.063US2 :

This is a decision on the petition, filed May 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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) 272-3218.

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 10/781,035

DATE : 11/29/06

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction on Patent No.: 7112841

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Palm location 7580, Certificates of Correction Branch – South Tower – 9A22

If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Mail S. Paul

2823

SPE

Art Unit



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210 ROUTE 4 EAST STE 103
PARAMUS NJ 07652

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OFFICE OF PETITIONS

In re Application of
Kim et al.
Application No. 10/781,037
Filed: 02/18/2004
Attorney Docket No. 5000-1-426

DECISION ON PETITION

This is a decision on the "PETITION TO WITHDRAW ERRONEOUS TERMINAL DISCLAIMER," filed July 26, 2007.

Applicants explained that they filed a terminal disclaimer on February 26, 2007, to overcome an obviousness-type double patenting rejection in view of U.S. Patent 7,133,609 to Kim, which is commonly owned and assigned to the assignee of the present application. Specifically, applicants stated: "Applicant, inadvertently and through no deceptive intent, filed the Terminal disclaimer on February 26, 2007 listing U.S. Patent 6,519,060 to Liu as the patent to which the present application is tied to via Terminal Disclaimer." Thus, applicants requested that the Office withdraw terminal disclaimer filed on February 26, 2007, and enter the new terminal disclaimer submitted on July 26, 2007.

As the examiner has concurred, the requested relief can be favorably considered. Accordingly, the petition is granted.

The \$400.00 petition fee will be charged to applicants' Deposit Account, as authorized.

This matter is being referred to Technology Center Art Unit 2613 for correction of PALM and file records consistent with this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



J. MICHAEL BOGGS
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101-2400

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OFFICE OF PETITIONS

In re Application of
Sanford Henick et al.
Application No. 10/781,039
Filed: February 17, 2004
Attorney's Docket No. 36869-297371

ON PETITION

This is a decision on the petition filed May 27, 2004 under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of February 17, 2004, rather than the presently accorded filing date of February 18, 2004.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on February 17, 2004, pursuant to the requirements of 37 CFR 1.10.

Paragraph (d) of 37 CFR 1.10 states that:

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came

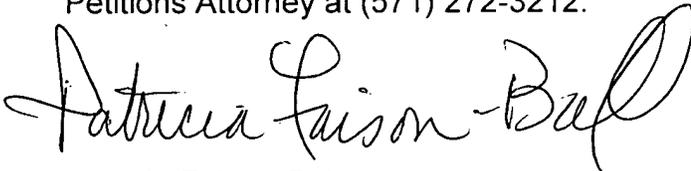
into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

The petition filed May 27, 2004, is accompanied by a statement from the employee responsible for depositing express mail package EV216832695US (along with five other express mail packages) with the USPS on February 17, 2004 as well as statements from USPS managers that the above referenced express mail package had to have been deposited on February 17, 2004, even though the express mail label indicates a date-in of February 18, 2004. The USPS acknowledges that the express mail package was in fact in the control and custody of the USPS on February 17, 2004 and that the error in recording the correct date-in on the express mail label was USPS error. Thus, the petition is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is **GRANTED**.

In view of the above and given the basis for granting the petition, no petition fee is due and none has been charged.

This matter is being referred back to the Office of Initial Patent Examination for correction of the filing date to February 17, 2004 and for a mailing of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in cursive script that reads "Patricia Faison-Ball". The signature is written in black ink and is positioned above the typed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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GEORGE W. NEUNER
EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

In re Application of :
Steven P. Gygi et al :
Application No. 10/781,047 :
Filed: February 17, 2004 :
Attorney Docket No. 57559(70207) :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Petition Maintenance [X]

File Edit View Show



Application
Application No: Patent No:

Title of Invention:

Filing Date: Issue Date:

Inventor Name:

Mailroom Date	Match	Initial Type	Decided Type	Decision	Decision Date
11/08/2004	N	321			

Petition Detail

Mailroom Date *	<input type="text" value="110804"/>	Decision	<input type="text" value="<NONE>"/>
Cert. of Mail Date	<input type="text"/>	Decision Date	<input type="text"/> <input type="checkbox"/> Next Business Day
Initial Petition Type *	<input type="text" value="321"/> <input type="button" value="MAKE ENTITY STATUS LARGE"/>	Decided Petition Type	<input type="text"/>
Initial Deciding * Office	<input type="text" value="OFFICE OF PETITIONS"/>	Final Deciding Office	<input type="text"/>
<input type="checkbox"/> Matched to Application		Petitions Examiner	<input type="text" value="CREASY, KAREN OLIVIA"/>
<input type="checkbox"/> Reconsidered/Renewed			

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 6/21/05 7/27/06

Paper No.: _____

TO SPE OF : ART UNIT 9823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/781150 Patent No.: 6876478 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- Approved** All changes apply.
- Approved in Part** Specify below which changes **do not** apply.
- Denied** State the reasons for denial below.

Comments: _____

Ricky Mack
RICKY MACK
SUPERVISORY PATENT EXAMINER

2873
Art Unit

SPE



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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
BANK ONE CENTER/TOWER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

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OFFICE OF PETITIONS

In re Application of :
Pafford, et al. :
Application No.: 10/781,058 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No.: 4002-3483 :

This a decision on the petition filed July 19, 2004 (certificate of mailing dated July 14, 2004). The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted**.

The subject non-provisional application was filed on February 18, 2004. On May 14, 2004, the Initial Patent Examination Division mailed a Notice of Missing Parts of Nonprovisional Application accorded the application a filing date and indicating that the filing fee and surcharge for the late payment of the filing fee were required. The notice also indicated that Figure 59 as described in the specification appeared to have been omitted. The notice set an extendable period for reply of two months from its mailing date as to the requirement of the filing fee surcharge. As to the omitted figure, the notice allowed a non-extendable period for reply of two months from its mailing date. The instant petition was filed on July 19, 2004, and was accompanied by the filing fee and surcharge and a copy of Figure 59.

Petitioner argues that the application was complete on filing and entitled to a filing date of February 18, 2004, because application 10/781,1058 incorporated by reference application 10/114,675 and other prior related applications.

In view of the incorporation by reference statement found on the application transmittal sheet, the application will retain the filing date of February 18, 2004 with Figure 59 as part of the original disclosure. The examiner assigned to this application will be expected to compare the drawings filed with the instant petition with the drawings contained in application 10/114,675 and/or prior related application listed to be sure application 10/781,058 do not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 18, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



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AUG 29 2006

KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS IN 46204-2709

In re Application of:
PAFFORD, JOHN et al
Serial No.: 10/781,058
Filed: Feb. 18, 2004
Docket: 4002-3483
Title: BONE GRAFTS

:
:
: DECISION ON PETITION TO
: WITHDRAW FINALITY AS
: PREMATURE
:
:

This is a decision on the petition filed on April 28, 2006 to withdraw the finality of the Office Action of Feb. 28, 2006.

The petition is **DISMISSED as moot.**

In the petition the applicant requested a withdrawal of the finality of the Office action on Feb. 28, 2006. In support of his petition, the applicant argues that the Sept. 6, 2005 amendment did not necessitate a final rejection. On June 27, 2006, the applicant filed an amendment after final and argued, *inter alia*, that the final rejection was premature. Subsequently, on July 31, 2006, the examiner agreed with the applicant's arguments, entered the amendment after final, withdrew the finality of the last Office action of Feb. 28, 2006 and issued a new non-final Office action.

In view of the history, the relief the applicant requested, namely the withdrawal of the finality of the Feb. 28, 2006 Office Action, has already occurred. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.



Frederick R. Schmidt, 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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,058	02/18/2004	John Pafford	MSDI-455/PC263.33	8377

52196 7590 03/18/2010
MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

EXAMINER

WILLSE, DAVID H

ART UNIT	PAPER NUMBER
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3738

MAIL DATE	DELIVERY MODE
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03/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

In re Application of:
PAFFORD, JOHN et al
Serial No.: 10/781,058
Filed: Feb. 18, 2004
Docket: MSDI-455/PC263.33
Title: BONE GRAFTS

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on March 8, 2010, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a)¹. The requisite petition fee under 37 CFR § 1.17(g) was paid.

The petition is denied.

In the petition, petitioner alleged that the petition to suspend further action on the current application is to provide sufficient time for a decision on petition by the USPTO in the abandoned application, SN 08/740,031. Petitioner requests suspension of action on the present application for six (6) months. Petitioner also opines that further examination of the present application may depend in part upon resolution of the petition in the abandoned related application SN 08/740,031. A suspension of action in the present case will prevent potentially unnecessary activity in the current application which would be wasteful of Office resources.

The reason stated in the petition for suspension of Office action is not justified. Under 37 CFR § 1.103(a), the Office will not suspend action if a reply by applicant to an Office action is outstanding. There was a non-final Office action mailed on December 11, 2008. The applicant must file a complete response to the non-final Office action of December 11, 2008 within the statutory period to respond. Therefore, the requested suspension will not be granted.

¹ 37 CFR 1.103. Suspension of action by the Office. (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include: (1) A showing of good and sufficient cause for suspension of action; and (2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office

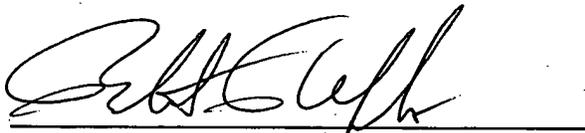
Furthermore, the reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. It is not clear why further examination of the present application would depend in part upon resolution of the petition in an abandoned application which was abandoned more than ten years. It is also not clear why suspension of action in the present case will prevent potentially unnecessary activity in the current application which would be wasteful of Office resources. However, the Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Therefore, any suspension of Office action will not be granted without a good and sufficient cause. Accordingly, the request for suspension of action is denied.

The application remains in active status and is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3738 awaiting the applicant's complete response to the outstanding Office action of December 11, 2008. As stated in 37CFR § 1.181(f): The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR § 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DENIED.



Robert Olszewski, Director
Technology Center 3700



JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

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APR 26 2010

OFFICE OF PETITIONS

In re Application of :
Artavanis-Tsakonas et al. : DECISION ON APPLICATION
Application No. 10/781,059 : FOR PATENT TERM ADJUSTMENT
Filed: February 17, 2004 :
Attorney Docket No. 7326-132 :

This is in response to the “Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)” filed October 9, 2009. Applicants request the initial determination of patent term adjustment be corrected from zero (0) days to at least one thousand three hundred seventy-six (1,376) days.

The request for reconsideration of the initial determination of patent term adjustment is **granted to the extent indicated herein.**

The Office has updated the PALM screen to reflect the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 157 days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application on July 10, 2009. Applicants were advised of a patent term adjustment to date of 0 days. In response, applicants timely filed this application for patent term adjustment with payment of the issue fee on October 9, 2009.

Delay Under 37 C.F.R. § 1.703(b)

To the extent applicants request 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 request is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. *See* 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 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 C.F.R. § 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.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 C.F.R. § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Applicant Delay Under 37 C.F.R. § 1.704 Involving Conduct Between
May 17, 2004, and August 25, 2006

Applicants dispute the propriety of the Office's entry of a 738-day reduction for alleged delay in responding to the Notice to File Missing Parts of Nonprovisional Application mailed May 17, 2004.

The period of 738 days is the number of days beginning May 17, 2004, the day after the date three months after the Office mailed the Notice to File Missing Parts, and ending on August 25, 2006, the date a reply to a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice to Comply") was filed.

Background Facts

The Office mailed a Notice to File Missing Parts of Nonprovisional Application on May 17, 2004.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 C.F.R. § 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 C.F.R. § 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 C.F.R. § 1.705(b) and 35 U.S.C. §154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(d) will be dismissed as untimely filed.

A proper reply to the Notice to File Missing Parts was filed November 17, 2004.

A Notice to Comply was mailed April 12, 2006.

A reply to the April 12, 2006 Notice to Comply was filed June 12, 2006.

A second Notice to Comply was mailed June 29, 2006.

A reply to the June 29, 2006 Notice to Comply was filed August 25, 2006.

Discussion

Applicants assert entry of the 738-day reduction was improper.

Applicants assert the Office should have entered:

- (1) A 92-day reduction for delay in responding to the Notice to File Missing Parts,
- (2) A 74-day reduction for the filing of a reply with an omission on June 12, 2006.

A reply to the Notice to File Missing Parts was filed three months and 92 days after the Office mailed the Notice. Therefore, the Office should have entered a reduction of 92 days, not 738 days, under 37 C.F.R. § 1.704(b).

The reply to the First Notice to Comply included an omission requiring the Office to mail the Second Notice to Comply. The number of days beginning on June 13, 2006, the day after the date the reply to the First Notice to Comply was filed, and ending on August 25, 2006, the date the reply to the Second Notice to Comply was filed, is 74 days. Therefore, a 74-day reduction should have been entered under 37 C.F.R. § 1.704(c)(7).

Applicant Delay Involving Delay in Responding to the March 26, 2008 Office action

A review of the record indicates a 91-day reduction should have been entered as a result of delay in responding to the March 26, 2008 Office action.

The Office mailed an Office action on March 26, 2008. A reply was not filed until three months and 91 days later on September 25, 2008. Therefore, a 91-day reduction should have been entered under 37 C.F.R. § 1.704(b).

The Office has entered a 91-day reduction for delay in responding to the May 26, 2008 Office action.

Conclusion

As previously discussed, the Office should not have entered a 783-day reduction for delay in responding to the Notice to File Missing Parts. The Office has removed the 783-day reduction.

As previously discussed, the Office should have entered a 92-day reduction for delay in responding to the Notice to File Missing Parts. The Office has entered the 92-day reduction.

As previously discussed, the Office should have entered a 74-day reduction as a result of the filing of a reply with an omission on June 12, 2006. The Office has entered the 74-day reduction.

As previously discussed, the Office should have entered a 91-day reduction as a result of Applicants' delay in responding to the May 26, 2008 Office action. The Office has entered the 91-day reduction.

The total amount of Applicants' delay under 37 C.F.R. § 1.704, as of the date the Notice of Allowance was mailed, is 431 (82 + 92 + 92 + 74 + 91)² days.

The patent term adjustment at the time of the mailing of the Notice of Allowance is 157 days which is 588 days of Office delay under 37 C.F.R. § 1.703(a) reduced by 431 days for Applicant's delay under 37 C.F.R. § 1.704.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

² The 82-day reduction was the result of Applicants' delay in responding to the October 27, 2006 Office action and is not in dispute. The first 92-day reduction is the result of Applicants' delay in responding to the non-final Office action mailed May 29, 2006, and is not in dispute.

PALM INTRANET

PTA Calculations for Application: 10/781059			
Application Filing Date:	02/17/2004	PTO Delay (PTO):	558
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	912
Post-Issue Petitions:	0	Total PTA (days):	157
PTO Delay Adjustment:	511		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
93	04/24/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	30		
92	04/24/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	481		
83	07/10/2009	MAIL NOTICE OF ALLOWANCE			
82	07/08/2009	ISSUE REVISION COMPLETED			
81	07/08/2009	DOCUMENT VERIFICATION			
80	07/08/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
79	07/06/2009	NOTICE OF ALLOWABILITY			
72	11/06/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
71	11/05/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
69	11/03/2008	DATE FORWARDED TO EXAMINER			
68	11/03/2008	MAIL APPEALS CONF. REJ. WITHDRAWN			
67	10/31/2008	PRE-APPEALS CONFERENCE DECISION - REJECTION WITHDRAWN			
66	09/25/2008	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
65	09/25/2008	NOTICE OF APPEAL FILED			
64	10/27/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
63	10/26/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
62	10/26/2008	INTERFERENCE INITIAL MEMO DISPOSAL			
61	09/25/2008	MISCELLANEOUS INCOMING LETTER			
58	09/25/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	03/26/2008	MAIL FINAL REJECTION (PTOL - 326)			

56	03/17/2008	FINAL REJECTION			
55	11/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	01/17/2008	DATE FORWARDED TO EXAMINER			
53	11/29/2007	RESPONSE AFTER NON-FINAL ACTION		92	49
52	11/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	11/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	11/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	05/29/2007	MAIL NON-FINAL REJECTION			
48	05/29/2007	NON-FINAL REJECTION			
47	11/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	05/04/2007	DATE FORWARDED TO EXAMINER			
45	04/19/2007	RESPONSE TO ELECTION / RESTRICTION FILED		82	42
44	04/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	01/04/2007	PG-PUB ISSUE NOTIFICATION			
42	10/27/2006	MAIL RESTRICTION REQUIREMENT	558		-1
41	10/26/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
39	11/17/2005	PRELIMINARY AMENDMENT			
38	02/17/2006	PRELIMINARY AMENDMENT			
37	10/17/2006	CASE DOCKETED TO EXAMINER IN GAU			
36	10/03/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
35	11/17/2004	REFERENCE CAPTURE ON IDS			
34.7	11/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	11/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	11/17/2004	PRELIMINARY AMENDMENT			
32	09/28/2006	APPLICATION DISPATCHED FROM OIPE			
31	09/29/2006	APPLICATION IS NOW COMPLETE			
30	08/25/2006	ADDITIONAL APPLICATION FILING FEES		738	8
29	09/28/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
28	08/25/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			

27	09/05/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
26	06/29/2006	SEQUENCE ERRORS			
23	06/12/2006	ADDITIONAL APPLICATION FILING FEES			
22	06/12/2006	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
21	06/21/2006	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
20	04/12/2006	SEQUENCE ERRORS			
19	11/17/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
18	02/17/2004	CLAIM PRELIMINARY AMENDMENT			
16	11/17/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
15	11/17/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	05/17/2004	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
5	03/31/2004	CLEARED BY L&R (LARS)			
4	03/23/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/23/2004	CASE CLASSIFIED BY OIPE			
2	03/05/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/17/2004	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JEFFREY M. GREENMAN
BAYER PHARMACEUTICALS CORPORATION
400 MORGAN LANE
WEST HAVEN CT 06516

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of :
Stoltefuss, et al. :
Application No. 10/781,075 :
Filed: February 17, 2004 :
Attorney Docket No. Le A 32 792 C1 :
For: DIHYDROPYRIMIDINES :

ON PETITION

This is a decision on the petition, filed February 14, 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 timely submit a reply within three (3) months of the mailing of the June 19, 2006 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on September 20, 2006. A Notice of Abandonment was mailed on February 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$1,500.00 ; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/639,955.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-26-10

Paper No.: _____

TO SPE OF : ART UNIT 2476

SUBJECT : Request for Certificate of Correction for Appl. No.: 1,078,086 Patent No.: 7,697,455

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COFC be approved ?

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square - 9D10-A
Palm Location 7580

Ennis Young LYE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

SPE /Ayaz Sheikh/

ART UNIT 2476



MARK FARBER, ESQ.
U.S. SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP, LP
150 GLOVER AVENUE
NORWALK CT 06856

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FEB 08 2007
OFFICE OF PETITIONS

In re Application of :
Joe D. Sartor et al :
Application No. 10/781,084 :
Filed: February 17, 2004 :
Attorney Docket No. 2890 :

ON PETITION

This is a decision on the petition, filed February 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 29, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3739 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).



Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON MA 01720

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Backes, et al. : DECISION ON PETITION
Application No. 10/781,121 :
Filed: February 18, 2004 :
Atty. Dkt. No: 1.60-031 :
:

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed November 14, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **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 to Withdraw the Holding of Abandonment under 37 CFR 1.181." See, 37 CFR 1.181(f).

This application became abandoned May 22, 2007 for failure to timely submit a proper reply to the non-final Office action mailed February 21, 2007. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

Petitioners argue non-receipt of the non-final Office action mailed February 21, 2007.

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 Office communication was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner 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 non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition does not establish that the non-final Office action was not received in accordance with the requirements set forth above.

It is noted that the address to which the Office communication was properly mailed and the address appearing on the petition differ. Further, there is no indication in the record that petitioner here, Holmes W. Anderson, does not appear to have been appointed to represent applicants.

Petitioners are advised that where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply), petitioners are required to establish that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (See, MPEP 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. See, MPEP 711.03(c).

Any renewed petition must establish non-receipt of the non-final Office action was not a consequence of a failure to properly submit a change of correspondence address and also establish non-receipt of the non-final Office action as set forth at MPEP 711.03(c).

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay was unintentional. Petitioners' attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

There is no indication in the record that practitioner herein has been appointed to represent applicants. A copy of the instant decision is being dually mailed. However, all future correspondence concerning this application will be mailed to the correspondence address of record until appropriate instruction to the contrary is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

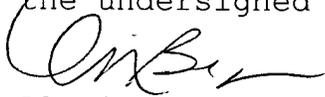
By facsimile:

(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Holmes W. Anderson
McGuinness & Manaras LLP
125 Nagog Park
Acton, MA 01720



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Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON MA 01720

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Backes, et al. :
Application No. 10/781,121 : DECISION ON PETITION
Filed: February 18, 2004 :
Attorney Docket No. 160-031 :

This is a decision on the petition renewed under the unintentional provisions of 37 CFR 1.137(b), filed April 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned May 22, 2007 for failure to timely submit a proper reply to the non-final Office action mailed February 21, 2007. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the required petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply to the non-final Office action.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: HOLMES W. ANDERSON
125 Nagog Park
Acton, MA 01720



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DUANE, MORRIS, LLP
3200 SOUTHWEST FREEWAY
SUITE 3150
HOUSTON, TX 77027

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of
Stephen F. Fromyer, et al.
Application No. 10/781,126
Filed: February 18, 2004
Attorney Docket No. D5433-138

:
:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 9, 2005.

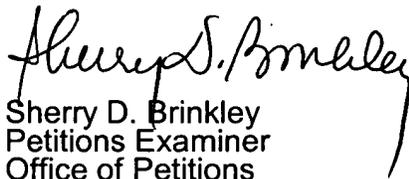
The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 18, 2005. A Notice of Abandonment was mailed on October 25, 2005. In response, on November 9, 2005, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 27, 2007

TO SPE OF : ART UNIT 1743

SUBJECT : Request for Certificate of Correction on Patent No.: 7189688 B2 – 10/781134

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

Elisha Evans

Certificates of Correction Branch

Tel. No. 703-308-9390 EXT 110

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

Jell Warden

SPE

1743

Art Unit



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ALEXANDRIA, VA 22313-1450
www.uspto.gov

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JUL 21 2004

OFFICE OF THE DIRECTOR
TC 3600

Dennis W. Beech
LAW OFFICES OF DENNIS W. BEECH
19900 Beach Blvd.
Suite C-2
Huntington Beach, CA 92648

In re application of
Dean E. Bessette
Application No. 10/781,153
Filed: February 17, 2004
For: PUSH OFF DIVERTER FOR SORTATION
SYSTEMS

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on February 17, 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. Bessette indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt **bona fide** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/pav: 7/17/04



JOSEPH S. TRIPOLI
THOMSON LICENSING INC
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Thierry Quere et al :
Application No. 10/781,163 :
Filed: February 17, 2004 :
Attorney Docket No. PF030022 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 9, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed September 16, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 17, 2004.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.


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

LAUBSCHER & LAUBSCHER, P.C.
1160 SPA ROAD
SUITE 2B
ANNAPOLIS MD 21403

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Van Der Valk et al :
Application No. 10/781,165 : DECISION GRANTING PETITION
Filed: February 18, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 23466 :

This is a decision on the petition, filed November 5, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**, *nunc pro tunc*.

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114 and subsequently issued a new Notice of Allowance and Fee(s) Due and Notice of Allowability on February 8, 2008. Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted. Therefore, the examiner was without authority to act further in the case absent a grantable petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

The issue fee in reply to the second Notice of Allowance and Fee(s) Due mailed February 8, 2008, was received on February 13, 2008. The application issued into Patent No. 7,356,036 on April 8, 2008.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions



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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

MAILED

MAR 13 2009

In re Application : **OFFICE OF PETITIONS**
Pirkle, et al. :
Application No. 10/781,174 : PATENT TERM ADJUSTMENT
Filed: February 18, 2004 :
Dkt. No.: TOT7USA :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR 1.705(b)," filed January 2, 2009.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **HELD IN ABEYANCE**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed December 10, 2008. The instant application for PTA was timely filed January 2, 2009 at the time of payment of the issue fee. Applicants argue that the application is entitled to an additional adjustment of 338 days in accordance with 37 CFR 1.702(b).

Applicants argue that the application is entitled to an additional adjustment of 338 days. Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

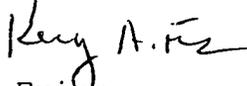
Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Receipt is hereby acknowledged of the required application fee of \$200.00.

The application file 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 Petitions Attorney Alesia M. Brown at (571) 272-3205.



Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



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DEC 09 2009

OFFICE OF PETITIONS

HOWSON & HOWSON LLP
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SUITE 210
FORT WASHINGTON PA 19034

In re Patent No. 7,516,692 :
Issued: April 14, 2009 :
Application No. 10/781,174 : PATENT TERM ADJUSTMENT
Filed: February 18, 2004 :
Dkt. No.: TOT7USA :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. § 1.705(d)," filed April 22, 2009. Patentee requests correction of the patent term adjustment from 748 days to 1,086 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

On July 7, 2009, patentee requested that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision is rendered in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,516,692 on April 14, 2009. The patent issued with a patent term adjustment of 748 days. Patentee argues that in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 1,086 days (781 days pursuant to 35 USC 154(b)(1)(A) plus 338 days pursuant to 35 USC 154(b)(1)(B) less 33 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on May 12, 2008, the application was pending three years and 448 days after its filing date (February 19, 2007 to May 11, 2008). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 781 days is correct. At issue is whether patentees should accrue 448 days of patent term adjustment for the Office taking in

excess of three years to issue the patent, as well as 781 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 448 days of delay in issuing the patent overlaps with the 781 days of examination delay under 37 CFR 1.702(a). Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

To the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)¹ and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending

¹ Likewise, 37 CFR 1.703(f) provides that:

To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

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 18, 2004, and ending on May 11, 2008, the day before the date that the RCE was filed on May 12, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 781 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 448 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

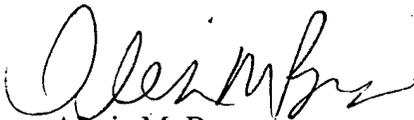
The 448 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 781 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 448 days and the 781 days is neither permitted nor warranted given that 781 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 748 days of patent term adjustment, having considered the 448 days of Office delay under the three-year pendency provision in conjunction with the 781 days of delay under 37 CFR 1.702(a)(1), reduced 33 days for applicants’ delay.

In view thereof, no adjustment to the patent term will be made.

No additional fees are due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions



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HOWSON & HOWSON LLP
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SUITE 210
FORT WASHINGTON, PA 19034

Mail Date: 04/20/2010

Applicant : Fred L. Pirkle : DECISION ON REQUEST FOR
Patent Number : 7516692 : RECALCULATION of PATENT
Issue Date : 04/14/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/781,174 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/18/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1086** 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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LEGAL DEPARTMENT
47690 EAST ANCHOR COURT
PLYMOUTH MI 48170-2455

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SEP 21 2007

OFFICE OF PETITIONS

In re Patent No. 7,159,871 :
Issue Date: January 9, 2007 :
Application No. 10/781,175 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No. 97-0022/COB (8470- :
138COA) :

This is a decision on the petition filed August 15, 2007, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Alesia M. Brown
Petitions Attorney
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/27/05

Paper No.:

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction on Patent No.: 6863321 B2

BEST AVAILABLE COPY

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

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes do not apply.

Denied

State the reasons for denial below.

Comments:

All changes apply

D. GLENN DAYOAN

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 3000

KBR SPE

3612

Art Unit



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JUN 26 2007

In re Application of : **OFFICE OF PETITIONS**
Floyd Backes, et al. :
Application No. 10/781,191 : **DECISION ON PETITION**
Filed: February 18, 2004 :
Attorney Docket No. 160-022 :

This is a decision on the petition under 37 CFR 1.181, filed October 18, 2006, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

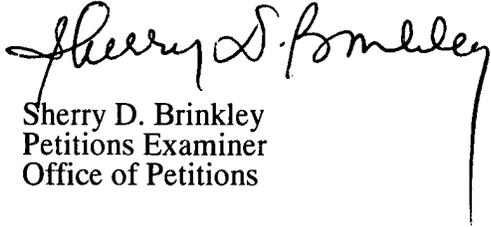
This application was held abandoned for failure to reply to the final Office action mailed March 28 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 10, 2006.

Petitioner states that, while the Notice of Abandonment was received, the Office action dated March 28, 2006 was not received. Petitioner indicates that the address of record is correct; however, petitioner notes that the Office action was returned to the USPTO as "undelivered."

A review of the written record does indicate an irregularity in the mailing of the Notice of March 28, 2006. In this regard, the final Office action in question was returned to the U.S. Patent and Trademark Office on April 7, 2006 by the U.S. Postal Service for some unknown reason. Therefore the record supports a conclusion that the final Office action was not received by petitioner.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2617 for re-mailing the Office action of March 28, 2006. The period for reply will run from the mailing date of the Office action.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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SEP -- 7. 2004

In re Application of
Niu, Xi Xian
Serial Number: 10/781,221
Filed: February 18, 2004
For: ACTIVE CARBON-BSED NANTUBE (CNT)
TECHNOLOGY

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PETITION UNDER
M.P.E.P.708.02 V
AND VI

This is in response to the petition filed July 19, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V and VI is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED**.

Marian C. Knode
Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

LAW OFFICES OF CLEMENT CHENG
17220 NEWHOPE STREET #127
FOUNTAIN VALLEY CA 92708



JGJR.: 12-04

Paper No: ____

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CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO IL 60661

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DEC 09 2004

OFFICE OF PETITIONS

In re Application of
Wang, et al. :
Application No. 10/781,236 :
Filed: 18 February, 2004 :
Attorney Docket No. 00854P0027US :

ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 20 September, 2004 and supplemented on 21 October, 2004

The petition is **DISMISSED as moot.**

BACKGROUND

The record indicates:

- the application was filed on 18 February, 2004, without, *inter alia*, a fully executed oath or declaration; and
- on 17 May, 2004, the Office mailed a Notice to File Missing Parts;
- the 20 September, 2004, petition of Petitioner John S. Mortimer (Reg. No. 30,407), *inter alia*, with an oath/declaration signed by inventor Jacob E. Kupp for himself and the non-signing inventor Yong Wang (Mr. Wang) and statement by Tom Pranka (president of the assignee) was supplemented on 21 October, 2004;
- that supplement now evidences that Mr. Wang has he signed the application.

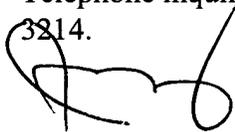
In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 status and no such status should appear on the file wrapper. This application need not be returned to this Office for any further consideration under Rule 1.47(a).

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being forwarded to OIPE for further processing as necessary before being forwarded for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions



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OAK BROOK IL 60523

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SEP 03 2004

OFFICE OF PETITIONS

In re Application of :
Dale McCarthy :
Application No. 10/781,243 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No.: 219507-000065 :

This is a decision on the petition filed July 19, 2004 (certificate of mailing July 13, 2004), requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed May 18, 2004 be withdrawn.

The application was filed on February 18, 2004. However, on May 18, 2004, the Office of Initial Patent Examination mailed the "Notice" stating that the application had been accorded a filing date of February 18, 2004 and advising applicant that figures 1a and 1b described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner contends Figures 1a and 1b were not missing because figures 1a and 1b do not exist, there is only figure 1.

It is obvious from the petition that no drawings were actually missing on February 18, 2004. However, the Notice to File Omitted Item(s) in a Nonprovisional Application mailed on May 18, 2004 was correct in stating that Figures 1a and 1b appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition must be dismissed.

Since the petition was not necessitated by any error on the part of the Office, the \$130 petition fee will not be refunded.

The Office acknowledges receipt of the preliminary amendment submitted with the instant petition.

The application will be processed and examined using the application papers filed on February 18, 2004.

The application is being returned to the Office of Initial Patent

Examination for further processing with a filing date of February 18, 2004, using the papers supplied on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.



Charlema R. Grant
Petition Attorney
Office of Petitions



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CHICAGO IL 60631

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Mark A. Fritzke :
Application No. 10/781,244 : DECISION GRANTING PETITION
Filed: February 18, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. WD0110 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of May 18, 2004, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination.

Karen Creasy
Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Stanley Loren Bentley et al :
Application No. 10/781,249 :
Filed: February 18, 2004 :
Attorney Docket No. 6890-74182 :

ON PETITION

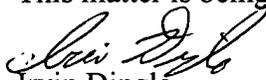
This is a decision on the petition under 37 CFR 1.137(b), filed March 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 28, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 29, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2825 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



GREENBERG TRAUIG, LLP
885 3RD AVENUE
NEW YORK, NY 10022

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AUG 3 1 2004

In re Application of :
Kenji Kuwabara :
Application No. 10/781,293 : **ON PETITION**
Filed: February 17, 2004 :
Attorney Docket No. 44342.018003 :

OFFICE OF PETITIONS

This is a decision on the petition filed May 28, 2004, under 37 CFR 1.182 which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of February 17, 2004.

The petition under 37 CFR 1.53(e) is **granted**.

The application was deposited on February 17, 2004. However, on May 14, 2004, the Office of Initial Patent Examination Division mailed a "Notice of Omitted Items," stating that page number 129 of the specification was omitted from the application on filing.

In response, on May 28, 2004, the instant petition and a copy of page number 129 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of 147 pages of the specification on February 17, 2004. A review of the application file indicates the presence of only 146 pages of the specification with page number 129 missing.

MPEP 503 states that "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 the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence support the fact that 147 pages of the specification were in fact present on filing, the Notice mailed May 14, 2004 is vacated.

Since the page number 129 of the specification cannot be located in the Office, the copy of page number 129 supplied on February 17, 2004 will be used for processing and examination purposes.

The petition fee of \$130.00 will be credited to deposit account no. 50-1561 as authorized.

This application is being referred to the Office of Initial Patent Examination Division for processing with a filing date of February 17, 2004, and for an indication that 147 pages of the specification were included on filing and for mailing of a filing receipt to indicate the above.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

A handwritten signature in black ink, appearing to read "Brian Hearn". The signature is written in a cursive style with a long, sweeping tail.

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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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Henry D. Coleman
714 Colorado Avenue
Bridgeport, CT 06605-1601

Mail Date: 04/21/2010

Applicant : Yung-chi Cheng : DECISION ON REQUEST FOR
Patent Number : 7589078 : RECALCULATION of PATENT
Issue Date : 09/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/781,305 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/18/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **526** 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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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Paul Mantz	: DECISION ON REQUEST FOR
Patent Number	: 7654596	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/781,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **971** 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.



MAILED

MAR 10 2010

OFFICE OF PETITIONS

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Application of :
Wang : DECISION ON PETITION
Application No. 10/781,327 :
Filed: February 17, 2004 :
Atty. Dkt. No.: 944-003.103-2 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed April 24, 2009.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed April 8, 2008. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed February 9, 2009.

Petitioners argue that a proper response to the non-final Office action was timely submitted on June 25, 2008. Petitioners have provided a copy of the reply.

Review of Office records reveals that the response received at the USPTO on June 25, 2008 while intended for instant application referenced U.S. App. No. 10/702,217. As a result of applicants' error, the application was held abandoned. However, a review of the reply reveals that it contained sufficient identifiers to associate it with the correct application.

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 response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicants are 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.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

This application is being forwarded to the Group Art Unit 2419 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions



MAILED

JUN 14 2010

OFFICE OF PETITIONS

GRAYBEAL JACKSON LLP
400 - 108TH AVENUE NE
SUITE 700
BELLEVUE, WA 98004

In re Application of
Kaushik Saha et al
Application No. 10/781,336
Filed: February 17, 2004
Attorney Docket No. 2415-015-03

ON PETITION

This is a decision on the petition, filed June 14, 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 April 27, 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.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2193 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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant : Roger Thorpe : DECISION ON REQUEST FOR
Patent Number : 7594002 : RECALCULATION of PATENT
Issue Date : 09/22/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/781,338 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/17/2004 : 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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(OSI) EYETECH, INC.
3 TIMES SQUARE, 12TH FLOOR
NEW YORK, NY 10036

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of :
Wisam Breegi et al :
Application No. 10/781,350 :
Filed: February 18, 2004 :
Attorney Docket No. EYE-011 :

ON PETITION

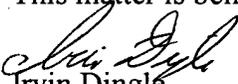
This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action mailed October 6, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 7, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3761 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions


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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/781,366	02/17/2004	3749	450	00032.P17US	5	8	2

CONFIRMATION NO. 2777

 28778
 JOHNSON & STAINBROOK, LLP
 3558 ROUND BARN BLVD., SUITE 203
 SANTA ROSA, CA 95403

CORRECTED FILING RECEIPT


OC000000013977539

Date Mailed: 10/04/2004

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)

 Darrell C. Horn, Santa Rosa, CA;
 Janis Zakis, Glen Waverley, AUSTRALIA;

Power of Attorney:

 Larry D. Johnson-31528
 Craig Stainbrook-45126

Domestic Priority data as claimed by applicant
Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2004

 The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/781,366

Projected Publication Date: 08/18/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ******Title**

Modular, angular direct steam cooker

Preliminary Class

126

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Date

: October 16, 2007

Patent No. :7,234,084
Inventor(s) :Brian A. Franchuck et al.
Issued :June 19, 2007
Title :SYSTEMS AND METHOD FOR ASSOCIATING A DLPDU RECEIVED BY AN
INTERFACE CHIP WITH A DATA MEASUREMENT MADE BY AN EXTERNAL CIRCUIT
Docket No. :E242.12-0005

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(j).

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

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.



For Cecelia Newman
Decisions & Certificates
of Correction Branch

(703) 308-9390 or (703) 308-9380 ext. 123

David R. Fairbairn, Kinney & Lange, P.A.
312 South Third Street
Minneapolis, MN 55415-1002

CBN/arg



AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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DEC 21 2005

In re Application of
Melvin R. Kennedy et al
Application No. 10/781,380
Filed: February 18, 2004
Attorney Docket No. 6865-20-2

OFFICE OF PETITIONS

**DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)**

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 23, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 by Mark D. Passler of Melvin R. Kennedy, stating that the inventor is over 65 years of age. Mark D. Passler is not the applicant and the petition does not include evidence of age.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3732 for action in its regular turn.



David Buccì
Petitions Examiner
Office of Petitions



AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Melvin R. Kennedy et al	:	DECISION ON PETITION
Application No. 10/781,380	:	TO MAKE SPECIAL UNDER
Filed: February 18, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. 6865-20-2	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed January 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 renewed petition includes a copy of a birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3732 for action on the merits commensurate with this decision.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090708

DATE : July 31, 2009

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction on Patent No.: 7404950 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments:

See enclosed Response to 312 amendment.

SPE: /Joseph Voitach/

Art Unit 1633



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MAY 5 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of
Chapko et al. :
Serial No.: 10/781,388 :
Filed: February 18, 2004 : **SUSPENSION OF ACTION**
Attorney Docket No.: P06264US01 :
:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicants' request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

- (1) A showing of good and sufficient cause for suspension of action; and
- (2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.



George Elliott
Director, Technology Center 1600



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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

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JUL 11 2007

OFFICE OF PETITIONS

In re Patent of :
Chapko et al. :
Application Number: 10/781388 :
Filing or 371(c) Date: 02/18/2004 : **ON PETITION**
INBRED MAIZE LINE PH7JB :

This is a decision on the Petition to Withdraw a Terminal Disclaimer Under 37 C.F.R. § 1.182," filed May 1, 2007.

The Petition is **granted**.

Applicant files the present petition and requests withdrawal of the "Terminal Disclaimer to Obviate a Double Patenting Rejection over a Prior Patent," to Patent No. 6,232,535, filed January 8, 2007.

As the Examiner has agreed, the petition is granted.

The application is being referred to Technology Center Art Unit 1638 for withdrawal of the Terminal Disclaimer, filed January 8, 2007, and for further processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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FOUR SEAGATE, EIGHT FLOOR
TOLEDO, OH 43604

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FROM DIRECTOR'S OFFICE

OCT 18 2007

TECHNOLOGY CENTER 3600

In re Patent No. GILLEN, JOHN H.
Appl No.: 10/781,395
Filed: February 18, 2004
For: POWER SLIDER DRIVE INTERFACE

:
: **DECISION ON PETITION**
: **FILED UNDER**
: *37 CFR 1.181*
:
:
:
:
:

This is a decision on the petition filed August 9, 2006 requesting that withdrawn claims 1-11 be allowed back into the application and examined because they are believed to read on the elected species. There is no fee required for this petition.

The petition is **GRANTED**.

In response to the present petition, a review of the above file was made. The file history shows that the examiner issued a requirement for restriction on March 6, 2006. The restriction requirement stated that the application contained claims directed to the following patentably distinct species: Group I, figs. 1, 2a, 3, and 4; Group II, fig. 2b; and Group III, fig. 2c. The requirement also stated that no claims were generic. In response to the restriction requirement, the applicant filed a response on March 24, 2006. In applicant's response applicant elected Group I with traverse and indicated that claims 1-13 read on the elected species. After receipt of the applicant's election, the examiner then issued a first non-final office action on June 9, 2006. In this non-final office action, the examiner answered the applicant's arguments in regard to the election with traverse and made the restriction requirement final. The examiner further stated that the applicant's indication of claims 1-13 reading on the elected species was not correct. The examiner then withdrew claims 1-11 because they supposedly did not read on the elected species. Thus, only claims 12 and 13 were examined on the merits. In response to the examiner's non-final office action, the applicant filed the present petition requesting that claims 1-11 be rejoined with claims 12 and 13 because claims 1-11 do read on the elected species.

After reviewing the applicant's petition and arguments, the arguments presented by the examiner in support of his position, and the specification, claims, and drawings of the present application

Art Unit: 3634

as originally filed, it has been determined that the examiner's decision to withdraw claims 1-11 appears to be in error. The present invention generally relates to a powered slider drive assembly for a vehicle window. The assembly comprises a slider panel, a regulator, and mechanical stops mounted on the regulator and the slider panel, wherein each of the stops have non-attaching pushing or pulling mechanical contact surfaces that interact with each other to allow the slider panel to slide freely. The specification further indicates that each of the stops for any of the species could have drive bumpers, wherein the drive bumpers, contact surfaces, or stops could comprise plastic selected from the groups listed in the specification. The drive assembly is disclosed as having three different species of slider drive interfaces. The three different species can be seen specifically in figures 2A, 2B, and 2C. The species of figure 2A is shown as having two stops on the slider panel and two stops on the regulator. The two stops on the slider panel further have first and second contact surfaces and the two stops on the regulator also have first and second contact surfaces. The species of figure 2B is shown as having two stops on the slider panel and one stop on the regulator. The two stops on the slider panel further have first and second contact surfaces and the one stop on the regulator also has first and second contact surfaces. Finally, the species of figure 2C is shown as having one stop on the slider panel and two stops on the regulator. The one stop on the slider panel further has first and second contact surfaces and the two stops on the regulator also have first and second contact surfaces.

Now, looking at the claims as originally filed, it can be seen that claim 1 claims a powered slider drive interface having at least first and second mechanical stops mounted on the slider panel **OR** the regulator, both first and second stops having a contact surface, and **one or more** mechanical stops mounted on **THE OTHER** of the slider panel or the regulator, the one or more stops having third and fourth contact surfaces. Therefore, the limitations of claim 1 read on all of the disclosed species because all of the species, as pointed out above, have either two stops on the slider panel and two stops on the regulator, two stops on the slider panel and one stop on the regulator, or one stop on the slider panel and two stops on the regulator. Therefore, claim 1 is generic to all of the disclosed species and should not have been withdrawn from consideration. Likewise, claims 2-5 also contain limitations that are generic to all of the disclosed species because all of the stops have contact surfaces that are mechanical, non-attaching pushing or pulling surfaces (claim 2), they could all have bumpers (claim 3), wherein the bumpers, contact surfaces or stops could be plastic (claim 4), and wherein the plastic is selected from the groups claimed (claim 5).

In regard to claim 6, a powered slider drive interface is being claimed. The interface comprises a driver bracket including at least first and second contact surfaces, wherein the driver bracket is disposed on a regulator, and a driver receiver including at least two stops, each having a contact surface, and the driver receiver is disposed on the slider panel. Therefore, since the slider panel has to have two stops disposed thereon, this claim could only read on the species of figure 2A or 2B. Thus, although claim 6 is not generic, it does read on the elected species of figure 2A and should not have been withdrawn from consideration.

In regard to claim 7, a powered slider drive assembly is being claimed. The assembly comprises a driver bracket including at least a first and second contact surfaces and being disposed on a

Art Unit: 3634

regulator, and a driver receiver including at least a first receiver stop and a second receiver stop, each having a contact surface and being disposed on the slider panel. Once again, since the slider panel has to have two stops disposed thereon, this claim could only read on the species of figure 2A or 2B. Thus, although claim 7 is not generic, it does read on the elected species of figure 2A and should not have been withdrawn from consideration.

Finally, in regard to claims 8-11, said claims contain limitations that are generic to all of the disclosed species because all of the stops have contact surfaces that are mechanical, non-attaching pushing or pulling surfaces (claim 8), they could all have bumpers (claim 9), wherein the bumpers, contact surfaces or stops could be plastic (claim 10), and wherein the plastic is selected from the groups claimed (claim 11).

In conclusion, it should also be pointed out that during the delay in answering this petition prosecution has continued on the application and now claims 12 and 13 are under a final rejection. In response to the final rejection the applicant has filed a Notice of Appeal and an Appeal Brief. After receiving the Appeal Brief, the examiner issued a Notice of Non-Compliant Appeal Brief because the brief contains arguments directed to claims that have been withdrawn from consideration, i.e. claims 1-11. However, since the applicant's petition is being granted, and the claims are going to be rejoined, the final rejection and the Appeal Brief are hereby being **VACATED**. The application will be forwarded back to the examiner who will issue a new non-final office action addressing all of applicant's claims 1-13.

SUMMARY: The petition is **GRANTED**.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Brian Glessner at 571-272-6843.



Wynn Coggins

Director

Patent Technology Center 3600

571-272-5350

October 9, 2007

BG/SM





UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

3/18/09
Patent No. :6917163
Inventor(s) :David W. Baarman
Issued : 7/12/2005
Title : INDUCTIVELY POWERED LAMP ASSEMBLY
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals col.12 claim 1, line 49 is printed in accordance with the record and please show evidence of an amendment or document. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

WARNER NORCROSS & JUDD LLP
111 LYON STREET NW STE 900
GRAND RAPIDS, MI 49503

HR/MD

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/3/09

TO SPE OF : ART UNIT 2821 *Spe (Tran Thuy)*

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/781401 Patent No.: 6917163

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**

[Signature]

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: _____

[Signature]

SPE

2821
Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Joseph J. Laks
Thomson Licensing LLC
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PRINCETON NJ 08543

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SEP 05 2008
OFFICE OF PETITIONS

In re Application of

Morel, et al.

Application No. 10/781,418

Filed: February 18, 2004

Attorney Docket No. PF030039

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 11, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of \$1440.00 and publication fee of \$300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed May 1, 2008. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 2, 2008. A Notice of Abandonment was mailed August 14, 2008

The issue fee was received on August 11, 2008.

Form PTOL-85B, filed August 11, 2008, is noted and made of record.

The application is being directed to the Office of Data Management for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



GLOBAL IP SERVICES PLLC
198F 27TH CROSS 3RD BLOCK JAYANAGAR
BANGALORE 56001-1
INDIA

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NOV 13 2007

OFFICE OF PETITIONS

In re Application of :
Bhaskar, et al. :
Application No. 10/781,420 : **DECISION ON PETITION**
Filed: February 18, 2004 :
Attorney Docket No. 1738.002US1 :

This is a decision on the petition, filed September 13, 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the nonfinal Office action mailed, October 19, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 12, 2007.

Petitioner asserts that the Office action dated October 19, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because it is unclear if practitioner stating that the October 19, 2006 non-final Office action was not received at the correspondence address **that was in effect on October 19, 2006.**

The address listed at the bottom of the petition is:

GLOBAL IP SERVICES PLLC
198F 27TH CROSS 3RD BLOCK JAYANAGAR
BANGALORE 56001-1
INDIA

The Notice at issue was properly mailed to the Schwegman, Lundberg, Woessner & Kluth, P.A. address in the United States. A change of address to the current correspondence address was filed by practitioner on July 13, 2007, which is substantially after the October 19, 2006 non-final Office action was mailed.

It is noted that practitioner used to practice with Schwegman, Lundberg, Woessner & Kluth, P.A.. However, before a petition to withdraw the holding of abandonment is granted, the Office requires a statement that the October 19, 2006 non-final Office action was not received at the Schwegman, Lundberg, Woessner & Kluth, P.A. address and that the supporting documentation provided with the present petition is information transferred to Global IP Services PLLC from Schwegman, Lundberg, Woessner & Kluth, P.A..

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



GLOBAL IP SERVICES PLLC
198F 27TH CROSS 3RD BLOCK JAYANAGAR
BANGALORE 56001-1
INDIA

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FEB 04 2008

In re Application of : **OFFICE OF PETITIONS**
Bhaskar, et al. :
Application No. 10/781,420 : **DECISION ON PETITION**
Filed: February 18, 2004 :
Attorney Docket No. 1738.002US1 :

This is a decision on the reconsideration petition, filed December 7, 2007, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTEED**.

This application was held abandoned for failure to reply to the non-final Office action mailed, October 19, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 12, 2007.

Petitioner asserts that the Office action dated October 19, 2006 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

Petitioner has provided a statement that the October 19, 2006 non-final Office action was not received at the Schwegman, Lundberg, Woessner & Kluth, P.A. address and that the supporting documentation provided with the present petition is information transferred to Global IP Services PLLC from Schwegman, Lundberg, Woessner & Kluth, P.A..

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2622 for re-mailing the Office action of October 19, 2006. The period for reply will run from the mailing date of the Office action.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.


Shirene Willis 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
www.uspto.gov

Greenberg Traurig, LLP
885 3rd Avenue
New York, NY 10022

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SEP 21 2004

In re Application of :
Kuwabara et al. :
Application No. 10/781,433 : DECISION GRANTING PETITION
Filed: February 17, 2004 :
Attorney Docket No. 44342.018001 :

OFFICE OF PETITIONS

This is a decision on the petition filed August 31, 2004, requesting that the above-identified application be accorded a filing date of February 17, 2004, with page 129 of the specification as part of the original disclosure.

On February 17, 2004, applicants filed the above-identified application. On August 23, 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 17, 2004, and advising applicants that page 129 of the specification appeared to have been omitted.

In response, on August 31, 2004, applicants filed the present petition and a copy of applicants' postcard receipt acknowledging receipt of "Patent Application (147 pgs of specs; 3 pg. Claims; 1 abstract; 0 pgs drgs Total 151). Additionally, applicants submitted page 129 of the specification with the present petition.

Upon review of the record, page 129 of the specification deposited on February 17, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 17, 2004, included page 129 of the specification, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 129 of the specification, was complete on filing and will be granted a filing date of February 17, 2004.

Accordingly, the petition is granted.

The Notice of Omitted Items mailed on August 23, 2004, was sent in error and is hereby vacated. Accordingly, the \$130.00 petition fee is unnecessary and will be refunded to Deposit Account No. 50-1561.

The Office of Initial Patent Examination is directed to **accord the above-identified application a filing date of February 17, 2004**, using the application papers submitted on that date, and page 129 of the specification submitted on August 31, 2004.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-8-05

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 10781439
6850345

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location 7580, Certificates of Correction Branch – South Tower – 9A22
If response is for an IFW, return to employee (named below) via PUBSCofC Team in MADRAS.

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- Approved All changes apply.
- Approved in Part Specify below which changes do not apply.
- Denied State the reasons for denial below.

Comments:

_____ SPE _____ Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/15/06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: 10781439 Patent No.: 6850345

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**.

Calvin Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- | | |
|--|--|
| <input type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: _____

SPE

Art Unit



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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McGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON, MA 01720

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OCT 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Backes et al. : ON PETITION
Application No. 10/781,476 :
Filed: February 18, 2004 :
Attorney Docket Number: 160-045 :

This is a decision on the Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR § 1.181, filed June 12, 2006.

The Petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed November 2, 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 response having been received, the application became abandoned February 3, 2006. A Notice of Abandonment was mailed June 6, 2006.

Applicant files the instant petition and asserts that a response to the Office action was timely filed via facsimile on February 1, 2006. Applicant states in the petition that "the Transmittal letter and Facsimile transmission cover sheet correctly listed the serial number as 09/781476." Petition at p.1. In support of this assertion, applicant files a copy of an Auto Reply Facsimile Transmission from this office indicating receipt by this Office of 11 pages of papers for application serial number 09/781,476 on February 1, 2006.

The above-identified application is 10/781,476, and not 09/781,476. A review of the Auto-Reply Transmission also reveals that the Transmittal Coversheet did not include the filing date of the application, or other indicia, i.e. the inventor, Art Unit or Examiner, that would allow this Office to quickly identify the correct application number.

The MPEP provides that "All correspondence related to a national patent application already filed with the U.S. Patent and Trademark Office must include the identification of the application number or the serial number and the filing date assigned to the application by the Office." See 37 CFR 1.5(a) and MPEP 502.

While "[a] a minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered", in this instance the application papers did not include the filing date, Art Unit, inventor or Examiner, that would allow this Office to quickly identify the correct application number.

Finally, Applicant is advised that this office has been unable to locate the papers filed on February 1, 2006. Applicant must include the reply in any renewed petition or any petition under 37 CFR 1.137.

Accordingly, the petition is dismissed.

Alternative venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently \$750.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement

that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

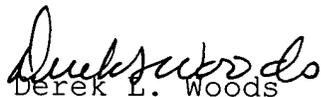
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.



Derek L. Woods
Attorney
Office of Petitions



McGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON, MA 01720

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FEB 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Backes et al.	:	
Application No.: 10/781476	:	DECISION ON
Filing or 371(c) Date: 02/18/2004	:	PETITION
Attorney Docket Number: 160-045	:	

This is a decision in response to the Renewed Petition to Withdraw Holding of Abandonment Pursuant to 37 CFR 1.181(a)” filed October 17, 2006. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled “Renewed Petition under [insert the applicable code section].” This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final office action, mailed November 2, 2005. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 23, 2006. A Notice of Abandonment was mailed June 6, 2006.

June 12, 2006 Petition

Applicant filed a petition to withdraw the holding of abandonment on June 12, 2006, wherein Applicant asserted that a timely response to the Office action was filed via facsimile on February 1, 2006. Applicant asserted that the Transmittal Letter and facsimile coversheet correctly listed the serial number as 09/781,476. In support of the assertion, Applicant included a copy of an Auto-Reply Facsimile Transmission from this Office indicating receipt by this Office of 11 pages of papers for application serial number 09/781,476 on February 1, 2006.

October 6, 2006 Decision dismissing the June 12, 2006 petition

The petition was dismissed in a Decision mailed October 6, 2006. Applicant was informed that the above-identified application number is 10/781,476, and not 09/781,476. Applicant was also informed that a review of the Auto-Reply Facsimile Transmission also revealed that the form did

not include the filing date of the application, or other indicia, i.e., the inventor; Art Unit or Examiner, that would allow this Office to quickly identify the correct application number.

Applicant was directed to 37 CFR 1.5, which mandates that all correspondence filed with this Office include the application serial number. Applicant was also required to provide a copy of the putatively-filed reply.

The present renewed petition

Applicant files the present renewed petition and asserts that, of the fax coversheet, Amendment and Transmittal letter, the one form that contained the correct serial number was the Transmittal. Applicant files copies of the Transmittal letter, Auto-Reply Facsimile Transmission and Amendment.

A review of the copy of the amendment filed with the renewed petition reveals that the amendment identifies application serial number 10/781,361. A review of the contents of application serial number 10/781,361 ((for which Applicant's herein are also listed as the attorney(s) of record)), reveals that the amendment was filed in application serial number 10/781,361. A review of the Transmittal Form received on February 1, 2006 in application serial number 10/781,361, reveals that it listed application serial number 10/781,361 thereon. A further review of the application papers filed in application no. 10/781,361 on February 1, 2006 reveals that Applicant apparently filed amendments for both application 10/781,361 and the present application, no. 10/781,476 on February 1, 2006, but failed to correctly identify the amendment for the present application, no. 10/781,476.

A review of the two (2) sets of amended specification reveals that they are similar; however, a review of the two (2) sets of claims reveals that one set was two (2) pages and the other set was three (3) pages; however, both sets identified the application as 10/781,361. This mixing of application papers, coupled with the mis-identification of the application papers, inhibited this office from being able to quickly discover applicant's error and make the requisite correction. "A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered." MPEP 502.

Analysis and conclusion

Applicant has failed to demonstrate that the error in correctly identifying the application papers was a minor error. Applicant has also failed to demonstrate compliance with 37 CFR 1.5 in filing the amendment and fax coversheet. The petition is properly dismissed.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. 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.

Applicant is again 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.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 16 2004

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AUG 16 2004

OFFICE OF THE DIRECTOR
TC 3600

JAMES T. ROBINSON
222 East Main Street
Norman, OK 73069-1303

In re application of
George M. Huggins
Application No. 10/781,483
Filed: February 17, 2004
For: PICKUP TAILGATE LOADING RAMP

: **DECISION ON PETITION**
:
: **TO MAKE SPECIAL**
:
: **(APPLICANT'S AGE)**
:

This is a decision on the petition submitted on February 17, 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. Huggins indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 8/02/04



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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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JAMES T. ROBINSON
222 E. MAIN STREET
NORMAN, OK 73069

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FEB 06 2006

In re Application of : **OFFICE OF PETITIONS**
George M. Huggins :
Application No. 10/781,483 :
Filed: February 17, 2004 : **DECISION ON**
For: PICKUP TAILGATE LOADING RAMP : **PETITION**

This is a decision in response to the Petition to Revive the application under 37 CFR 1.137(b), filed August 10, 2005.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." 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 respond to the non-final Office action, mailed October 20, 2004. The Office action set a three (3) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No response having been received, the application became abandoned on January 11, 2005. A Notice of Abandonment was mailed June 2, 2005.

Applicant files the instant petition and asserts that the Office action appears to be based upon the parent application, of which the above-identified application is a Continuation-in-Part ("CIP"). Applicant correctly notes that the Examiner's October 20, 2004 Office action objected to drawings "because the new drawings alluded to in papers filed on February 17, 2004 are not in the file." Office action at p.2. Applicant asserts, *inter alia*, that "a new set of drawings accompanied the CIP application filed February 17, 2004." Applicant points to further comments in the October 20, 2004 Office action that

appear to be based upon the parent application filing, and not of the above-identified CIP. Applicant has filed application papers with the instant petition that Applicant asserts were putatively filed in this Office on February 17, 2004.

Applicant requests revival of the application and examination *ab initio* of the claim contained in Applicant's CIP application, putatively filed February 17, 2004. Applicant alternatively requests the granting of the instant petition and an opportunity to file a Request for Continued Examination ("RCE").

Analysis and conclusion

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); (2) the petition fee required by 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) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). Applicant lacks item (1).

As to item (1), A review of the petition reveals that Applicant has failed to adequately support his assertion, that the papers filed on February 17, 2004, are other than those of record in the Office¹. As such, the petition does not include a reply to the Office action and is not grantable. The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The best evidence of what was filed on February 17, 2004, is applicant's postcard receipt. "If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO." MPEP § 503.

¹In a telephone conversation with Petitioner on or about January 7, 2006, the undersigned Attorney discussed the filing of a petition to accord the February 17, 2004 filing date to the papers putatively filed on February 17, 2004; however, to date, no filing date petition has been received in this Office.

Regarding Applicant's request to grant of the instant petition and provide an opportunity to file a RCE, while a RCE is among the acceptable replies for revival of an abandoned application, Applicant has failed to file a RCE, but only requests the opportunity to file a RCE.

In conclusion, Applicant has failed to file the required reply.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



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JAMES T. ROBINSON
222 E. MAIN STREET
NORMAN OK 73069

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DEC 05 2007

OFFICE OF PETITIONS

In re Application of	:	
George M. Huggins	:	
Application No.: 10/781483	:	DECISION ON
Filing or 371(c) Date: 02/17/2004	:	PETITION
Attorney Docket Number: HUG107	:	

This is a decision in response to the Petition to Accord Filing Date, filed August 29, 2007. The petition is properly treated under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 20, 2004. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned on January 11, 2005. A Notice of Abandonment was mailed June 2, 2005.

The August 10, 2005 petition

Applicant filed a petition to revive the application under 37 CFR 1.137(b) on August 10, 2005, wherein Applicant asserted that the Office action appeared to have been based upon the parent application, of which the above-identified application is a Continuation-in-Part ("CIP"). Applicant noted correctly that the Examiner's October 20, 2004 Office action objected to drawings "because the new drawings alluded to in papers filed on February 17, 2004 are not in the file." Office action at p.2. Applicant asserted, inter alia, that "a new set of drawings accompanied the CIP application filed February 17, 2004." Applicant noted further comments in the October 20, 2004 Office action that appeared to have been based upon the parent application filing, and not of the above-identified CIP. Applicant filed papers with the August 10, 2005 petition that Applicant asserted were filed in this Office on February 17, 2004.

Applicant requested revival of the application and examination ab initio of the claim contained in the CIP application, putatively filed February 17, 2004. Applicant alternatively requested alternatively the granting of the petition and an opportunity to file a Request for Continued Examination (“RCE”).

The present petition

Applicant files the present petition in response to the Decision, requesting the application papers identified on the return-receipt postcard be accorded a filing date of February 17, 2004.

Applicable Law, Rules and MPEP

37 CFR 1.181(f) states

The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Analysis

Applicant filed the present application papers on February 21, 2004. A Filing Receipt was mailed July 30, 2004, noting the filing date and receipt of three (3) drawings and one (1) claim. The Filing receipt advised Applicant to “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.”

Also filed with the application on February 21, 2004 was a petition to make the application special under the accelerated examination procedure set forth in MPEP 708.02, section IV: Applicant’s Age. The petition was granted in a Decision mailed August 16, 2004. Shortly thereafter, on October 20, 2004, this Office mailed a non-final Office action. The application became abandoned for failure to timely reply to the Office action on December 21, 2005. A Notice of Abandonment was mailed June 2, 2005. Thereafter, on August 10, 2005, more than eight months after the mailing of the Office action, and more than a year after the mailing of the Filing Receipt, Applicant filed a petition to revive the application, wherein applicant noted that the Office action appeared to have been based upon the prior application, and not the CIP application filed February 17, 2004. The petition was dismissed in a Decision mailed February 6, 2006. More than 14 months after the Decision dismissing the Petition was mailed to Applicant, advising Applicant to file a petition to accord the application papers a filing date, and more than three years after the mailing of a Filing Receipt, Applicant files the present petition to accord the application papers a filing date.

In this instance the action complained of – failing to accord the CIP application papers a filing date – occurred more than a year after Applicant received Notice from this Office as to the

application papers filed on February 17, 2004. The present petition was filed more than three years after the mailing of the Filing receipt and more than a year after Applicant was advised to file the petition. Applicant has failed to file a timely petition. The petition is dismissed. The application remains abandoned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney
Office of Petitions



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Paper No.

KAPLAN & GILMAN, LLP
900 ROUTE 9 NORTH
WOODBIDGE, NJ 07095

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SEP 30 2004

OFFICE OF PETITIONS

In re Application of :
Zubok et al. :
Application No. 10/781,484 :
Filed: February 18, 2004 : ON PETITION
Attorney Docket Number: :
532-3X7 :

This is a decision on the Petition to Accord Original Filing Date, filed June 25, 2004, requesting the above-identified application be accorded the filing date of February 18, 2004.

Background

Application papers in the above-identified application were filed on February 18, 2004. On May 20, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, indicating February 18, 2004, as the filing date, and notifying Applicants that drawing Figures 4a-4g described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR §1.136(a).

Petitioner subsequently, on May 4, 2004, filed a Preliminary Amendment requesting that the Examiner review and enter drawing Figures 4a-4g.

Upon receipt of the Preliminary Amendment, the Office mailed an Updated Filing Receipt, wherein the filing date of the application was changed to the date of receipt of the Preliminary Amendment - May 4, 2004.

The Instant Petition

Petitioner files the instant Petition to Correct the Filing Date of the application to February 18, 2004.

The Manual of Patent Examining Procedure ("MPEP"), § 601.01(g) states that if an application is filed without all of the

drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'" , thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

In this instance, Applicant did not respond to the Notice. Instead, Applicant filed a Preliminary Amendment to the Examiner.

A review of the file reveals that the application as filed on February 18, 2004, was a complete application under 37 CFR 1.53(b) such that the application was correctly accorded the February 18, 2004 filing date.

Accordingly, the petition is GRANTED.

A refund of the petition fee has been scheduled.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to February 18, 2004, with the drawings filed on that date, and for the mailing of a corrected filing receipt.

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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Commissioner for Patents
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OFFICE OF PETITIONS

In re Patent No. 7,090,908	:	
Issue Date: August 15, 2006	:	
Application No. 10/781,486	:	DECISION GRANTING PETITION
Filed: February 18, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. RBD-114-A	:	

This is a decision on the petition, filed by facsimile transmission on March 2, 2007, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen-months after filing. See 37 CFR 1.137(f).

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 18, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart 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(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country must be accompanied by:

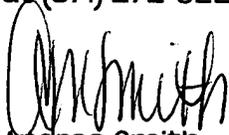
- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and

(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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,090,908 on August 15, 2006. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions



KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBIDGE, NJ 07095

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Zubok, et al. :
Application No. 10/781,498 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No. 532/3X9b :

This is a decision on the petition filed June 25, 2004, requesting that the above-identified application be accorded a filing date of February 18, 2004, with drawings of Figures 4a-4e as a part of the original disclosure of the application.

The application was filed on February 18, 2004 as a continuation application of prior application No. 10/688,632. However, the drawings of Figures 4a-4e described in the specification were omitted.

On June 25, 2004, one (1) sheet of drawings containing Figures 4a-4g were filed with the present petition. Furthermore, petitioners state that the drawing containing Figures 4a-4e was expressly incorporated by reference in the above-identified application filed February 18, 2004.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the USPTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath

or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing drawings were actually deposited in the PTO on February 18, 2004, with the other application papers nor request a later filing date. Please note, petitioner states, "The attached drawing sheet containing FIGS. 4a-4g was inadvertently omitted from the drawing sheets that were originally filed with the instant application."

Instead, applicants seek to add the drawings of Figures 4a-4e to the present application on the basis that the drawings were incorporated by reference. However, no petition is necessary for that purpose. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

. . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition.
(emphasis supplied)

If applicants desire that Figures 4a-4e be added to the application, the appropriate procedure is by way of amendment requesting the entry of the drawing. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner. It is noted that applicants filed such a preliminary amendment on May 4, 2004.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

A handwritten signature in black ink, appearing to read 'E. J. Tannouse', with a long horizontal flourish extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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NOV 04 2004

OFFICE OF PETITIONS

In re Application of
Aaron Y. Mosher et al.
Application No. 10/781,500
Filed: February 18, 2004
Attorney Docket No. 038190/272189

:
:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.10 (c) filed October 12, 2004 to correct the filing date to February 18, 2004, rather than the presently accorded filing date of February 17, 2004.

Petitioner alleges that the application was deposited in Express Mail service on February 18, 2004. In support, on October 12, 2004, petitioner supplied a copy of Express Mail Label No. EV231896322US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file). The "date-in" on the Express Mail Label is February 18, 2004.

In view of the above, the petition is GRANTED and the petition fee paid in the amount of \$130.00 will be credited to deposit account no. 16-0605.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to February 18, 2004** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions


UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/781,500	02/18/2004	3662	1126	038190/272189	3	35	4

CONFIRMATION NO. 2940

00826
 ALSTON & BIRD LLP
 BANK OF AMERICA PLAZA
 101 SOUTH TRYON STREET, SUITE 4000
 CHARLOTTE, NC 28280-4000

CORRECTED FILING RECEIPT


OC000000014281221

Date Mailed: 11/04/2004

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)

Aaron Y. Mosher, Madison, AL;
 Peter Wittenberg, Creve Coeur, MO;

Assignment For Published Patent Application

The Boeing Company

Power of Attorney: The patent practitioners associated with Customer Number **00826**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/781,500**

Projected Publication Date: 08/18/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method, apparatus, and computer program product for radar crossrange superresolution

Preliminary Class

342

**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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KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBRIIDGE, NJ 07095

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AUG 3 1 2004

OFFICE OF PETITIONS

In re Application of :
Zubok, et al. :
Application No. 10/781,504 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No. 532/3X4 :

This is a decision on the petition filed June 25, 2004, requesting that the above-identified application be accorded a filing date of February 18, 2004, with drawings of Figures 4A-4G as a part of the original disclosure of the application.

The application was filed on February 18, 2004 as a continuation application of prior application No. 10/688,632. However, the drawings of Figures 4A-4G described in the specification were omitted.

On June 25, 2004, one (1) sheet of drawings containing Figures 4a-4g were filed with the present petition. Furthermore, petitioners state that the drawing containing Figures 4a-4g was expressly incorporated by reference in the above-identified application filed February 18, 2004.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the USPTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath

or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, petitioners neither assert that the missing drawings were actually deposited in the PTO on February 18, 2004, with the other application papers nor request a later filing date. Please note, petitioner states, "The attached drawing sheet containing FIGS. 4a-4g was inadvertently omitted from the drawing sheets that were originally filed with the instant application."

Instead, applicants seek to add the drawings of Figures 4a-4g to the present application on the basis that the drawings were incorporated by reference. However, no petition is necessary for that purpose. New drawings may be entered by the primary examiner without a petition so long as the drawings contain no new matter. See MPEP § 608.02(a).

MPEP 201.06(c) states that:

. . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition.
(emphasis supplied)

If applicants desire that Figures 4a-4g be added to the application, the appropriate procedure is by way of amendment requesting the entry of the drawing. Any such amendment should be filed prior to the first action on the merits and will be considered by the primary examiner. It is noted that applicants filed such a preliminary amendment on May 6, 2004.

Accordingly, the petition is inappropriate and is subject to dismissal.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 18, 2004, including an indication in USPTO records that sixteen (16) sheets of drawings were present on filing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

A handwritten signature in black ink, appearing to read 'E. J. Tannouse', followed by a horizontal line extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office



JGJr: 09-04

Paper No: ___

KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBRIIDGE NJ 07095

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of:

Zubok, et al.

Filed: 18 February, 2004

Application No. 10/781,506

Docket No. 523/3X5

DECISION ON PETITION

This is a decision on the request for a corrected filing receipt filed on 7 June, 2004, and the petition under 37 C.F.R. §1.53 filed on 25 June, 2004, to obtain the original filing date of 18 February, 2004, for the application, rather than the presently accorded date of 6 May, 2004.

The petition under 37 C.F.R. §1.53 is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 18 February, 2004.

On 6 May, 2004, Petitioner filed a Preliminary amendment requesting, inter alia, the entry of a one sheet of drawings containing Figs. 4a - 4 g.

On 16 March, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," and indicated that, while a filing date had been granted, "Fig.(s) 4a - 4g" appeared to have been omitted from the application. In addition, the Notice set forth a filing date of 6 May, 2004.

Petitioner responded with a request for a corrected filing receipt, indicating that the correct filing date for the application was 18 February, 2004.

Petitioner filed on 25 May, 2004, the instant petition, along with, *inter alia*, a copy of the "Fig.(s)

4a - 4g" and indicating that the figures had been submitted not to accept a later filing date, but rather as part of Petitioner's Preliminary Amendment filed on 6 May, 2004, and seeking entry by the Examiner.

ANALYSIS

A review of the record reveals that the instant application was deposited on 18 February, 2004, and of the 16 sheets of drawings so deposited, none of the drawings included Fig.(s) 4a - 4g. Nonetheless, of the materials submitted, it appears that the application as deposited contained sufficient materials to satisfy the statutory requirements for a filing date.

Further, while Petitioner submitted a Preliminary Amendment on 6 May, 2004, which included the Fig.(s) 4a - 4g, it is clear that Petitioner sought entry of the drawings as containing no new matter under a determination that expressly is not made in this writing but rather is to be made at a future date by the Examiner.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**, and the petition fee is waived; however, the Notice mailed on 21 May, 2004, was correct and stands as mailed, and is not withdrawn as to Fig.(s) 4a - 4g as described in the application.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 18 February, 2004:

- (1) using only pages 1 - 36 (Specification, Claims, Abstract, and 16 sheets of drawings, deposited on 18 February, 2004. (The sheet of drawings containing Fig.(s) 4a - 4g is not to be included or used in this process.)
- (2) with direction to OIPE to correct Office records to reflect that 36 pages of specification (description, claims and abstract) and 16 sheets of drawings were present on filing on 18 February, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 18 February, 2004, reflecting therein that 36 pages of specification (description, claims and abstract) and 16 sheets of drawings were present on filing. (The sheet of drawings containing Fig.(s) 4a - 4g is not to be included or used in this process.)

Thereafter, the application and the Preliminary Amendment filed on 6 May, 2004, will be considered by the examiner in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

A handwritten signature in black ink, appearing to read "John J. Gillon, Jr.", written over a horizontal line.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081222

DATE : December 22, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7149539B2

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:

All required documents along with fees are submitted.

/ALEXANDER EISEN/
Supervisory Patent Examiner.Art Unit 2617

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081222

DATE : December 22, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7149539B2

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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:

All required documents along with fees are submitted.

/ALEXANDER EISEN/
Supervisory Patent Examiner.Art Unit 2617



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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant : James P. Quigley : DECISION ON REQUEST FOR
Patent Number : 7589173 : RECALCULATION of PATENT
Issue Date : 09/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/781,564 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/18/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **291** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Edouard Koullick	: DECISION ON REQUEST FOR
Patent Number	: 7582068	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/781,568	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **229** 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.



Nikolai & Mersereau, P.A.
900 Second Avenue South
Suite 820 International Centre
Minneapolis, MN 55402

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JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Chin-Chuan Chang :
Application No. 10/781,584 :
Filed: February 1, 2004 :
Attorney Docket No. PUSA040126 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2005, to revive the above-identified application.

In response to the Notice of Allowance mailed October 13, 2004, petitioner hereby submits \$750 for the petition to revive fee, \$700 for the issue fee, \$300 for the publication fee, and the statement of unintentional delay as required by 37 CFR 1.137(b).

Since petitioner has met the requirements to revive this application, pursuant to 37 CFR 1.137(b), the petition is **GRANTED**.

The application file is being referred to the Office of Publications for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
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.
10/781,615	02/20/2004	Donald Y. Tinker	200309949-1	4121

7590 04/23/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

MOORTHY, ARAVIND K

ART UNIT	PAPER NUMBER
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2131

NOTIFICATION DATE	DELIVERY MODE
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04/23/2008

ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

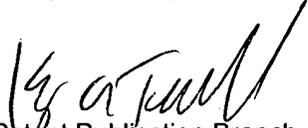
The declaration of express abandonment is recognized

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.


Patent Publication Branch
Office of Data Management

10781615
DTERRY
08E025
Adjustment date: 04/21/2008
02/25/2004 HTECKLUJ 00000011
02 FC:1202 216.00 CR
03 FC:1201 344.00 CR



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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
10/781,615 02/20/2004 Donald Y. Tinker 200309949-1 4121

22879 7590 04/22/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

MOORTHY, ARAVIND K

ART UNIT PAPER NUMBER

2131

NOTIFICATION DATE DELIVERY MODE

04/22/2008

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):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

Notice of Abandonment

Application No.

10/781,615

Examiner

KIMBERLY A. TERRELL

Applicant(s)

TINKER, DONALD Y.

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) No reply has been received.
2. Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) The issue fee and publication fee, if applicable, has not been received.
3. Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) No corrected drawings have been received.
4. The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. The reason(s) below:

/Kimberly Terrell/
Office of Data Management
571-272-4200

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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AUG 24 2007

OFFICE OF PETITIONS

In re Application of :
Reiji Misawa :
Application No. 10/781,671 : DECISION GRANTING PETITION
Filed: February 20, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 00862.023467 :

This is a decision on the petition, filed August 22, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.


Frances Hicks
Petitions Examiner
Office of Petitions

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¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.



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1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

DEC 14 2005

TECHNOLOGY CENTER 2100

In re Application of: Kitamura, et al.
Application No. 10/781,677
Filed: February 20, 2004
For: METHOD AND DATA PROCESSING
SYSTEM WITH DATA REPLICATION

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on July 29, 2005.

The Petition is **GRANTED**.

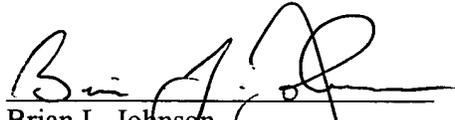
M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595



Daniel J. Stanger
MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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APR 13 2007

Technology Center 2100

In re Application of:)	
K. KITAMURA et al.)	
Application No. 10/781,677)	DECISION ON PETITION
Filed: February 20, 2004)	UNDER 37 CFR § 1.181
For: METHOD AND DATA PROCESSING SYSTEM)	
WITH DATA REPLICATION)	

This is a decision on the Request for Withdrawal of Finality of Office Action filed on 07 March 2007. The Request has been treated as a petition under 37 C.F.R. § 1.181 to review the prematurity of Final rejection mailed on 07 February 2007.

The petition is **GRANTED**.

BACKGROUND

On 21 November 2006, applicant filed a RCE and an amendment to claims 1-2 and 22 and to add new claims 23-25.

On 07 February 2007, the examiner finally rejected all claims 1-2 and 22-25 in the first Office action immediately after filing a RCE.

On 07 March 2007, applicant filed a request for withdrawal of finality of Office Action.

RULES AND PROCEDURES

MPEP § 706.07(b) states in part that:

The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application ...

MPEP § 706.07(h)(VIII) states that:

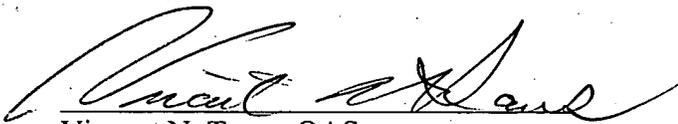
The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP § 706.07(b) for making a first action final in a continuing application are met.

DECISION

A review of the file indicates that the rejection of claim 22 under 35 U.S.C. § 101 was newly introduced in the Final Office action mailed 07 February 2007 (immediately after filing RCE) and the amended claim 22 was not necessitated such a 101 rejection. Further, it appears that many new limitations have been added to claims 23-25 and these claims would be received a notice indicating "... require further search and/or consideration" if they were presented as an amendment after final Office action. Thus, claims 23-25 are not drawn to the same invention claimed in the earlier amended claims (prior to filing RCE), and would be refused to enter by the examiner if they had been presented in the application prior to filing the RCE of 21 November 2006.

For the above stated reasons, the petition is **GRANTED**. The final Office action mailed 07 February 2007 is hereby vacated and a new Non-final Office action will be mailed in due course.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

JUN 02 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

Mattingly, Stanger & Malur, P.C.
1800 Diagonal Rd., Suite 370
Alexandria, Virginia 22314

In re Application of: Mizuno, et al.
Application No. 10/781,685
Filed: 20 February 2004
For: STORAGE SYSTEM AND METHOD
FOR BACKUP

**DECISION ON PETITION
FOR ACCELERATED
EXAMINATION UNDER
M.P.E.P. §708.02(VIII)**

This is a decision on the petition filed 20 April 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

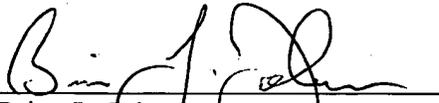
A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.



Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

5/31/05

GO



TORIN MOORE
APT 2F
227 N CENTRAL AVE
CHICAGO IL 60644

COPY MAILED

JUL 01 2009

OFFICE OF PETITIONS

In re Application of
Torin Moore
Application No. 10/781,750
Filed: February 20, 2004
Title of Invention: **FASTBREAKIT**

:
: **DECISION ON PETITION**
:
:
:

This is a decision on the petition under 37 CFR 1.137(a), filed June 10, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on March 14, 2006, for failure to timely respond to the non-Final Office Action mailed December 12, 2005. Accordingly, a Notice of Abandonment was mailed July 26, 2006.

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. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in § 1.17(l);
- (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.¹

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.²

Petitioner asserts a failure to acknowledge that the Office Action mailed December 12, 2005 required a response. Petitioners have not provided any evidence to substantiate their argument that the delay in responding to the non-Final Office Action unavoidable. The showing of record therefore is that the delay in responding to the non-Final Office Action, was due to petitioners not reading the Office Action and thus the failure to timely respond to the non-Final Office Action is not therefore based on a circumstance that couldn't have been avoided, had the petitioner been more diligent.

Additionally, petitioner argues that the application was unavoidably abandoned due to

¹In *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).

²*Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

an "inability to come up with the fees". A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the **entire** period of the delay was such as to excuse the delay.³ In order to establish unavoidable delay based on financial difficulty, petitioner must provide a showing of the responsible person's financial condition at the time, including income, expenses, assets, credit, and obligations, which made the delay in payment of the fee unavoidable. Petitioner must provide copies of any documents or records that would confirm the financial difficulty.

Finally, petitioner should note that there are three periods to be considered during the evaluation of a petition under 37 C.F.R. §1.137(a) or (b). The delay in:

- (1) reply that originally resulted in abandonment and from the abandonment until discovery thereof;
- (2) filing an initial petition pursuant to §1.137(a) or (b) to revive the application; and
- (3) filing a *grantable* petition pursuant to §1.137(a) or (b) to revive the application.⁴

Petitioner has therefore not established that the delay was unavoidable. Rather than unavoidable delay, the record indicates a lack of diligence on the part of petitioner, dating back to 2006. In order to establish unavoidable delay, petitioner must demonstrate diligence in prosecution of the matter,⁵ and the record does not establish that petitioner took all action necessary for prosecution of this application in satisfaction of 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)⁶,

³ Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

⁴ See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (10 October, 1997).

⁵ See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

⁶ 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

which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of, at this writing, \$810.00 for a small entity and \$1620.00 for a large entity and the \$270.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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 concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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 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 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).



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Paper No. None

CRAIG WILSON
2570 MATHESON BLVD. EAST
SUITE 211
MISSISSAUGA ON L4W 4Z3 CA CANADA

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MAY 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Stuart Thomas Coulson et al.	:	
Application No. 10/781,765	:	DECISION ON PETITION
Filed: February 20, 2004	:	UNDER 37 C.F.R. §1.181
Attorney Docket Number: 136499	:	
Title: FISH FRIENDLY HYDRAULIC	:	
TURBINE DISTRIBUTOR	:	

This is a decision on the petition filed March 23, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed October 6, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time are permitted for transmitting issue and publication fees¹. Accordingly, the above-identified application became abandoned on January 7, 2006. A Notice of Abandonment was mailed on February 27, 2006.

With the present petition, Petitioner has alleged that the mailing was not received. 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. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement².

1 See MPEP §710.02(e).
2 See MPEP 711.03(c)..

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 both 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 mail a new Notice of Allowance and Issue Fee Due, as well as a copy of the Notice of Allowability. The three month non-extendable time period for paying the issue fee will be set to run from the mailing date of the Notice.

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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office



Paper No.

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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SEP 26 2008

In re Patent No. 7,347,420 :
Kobayashi et al. : LETTER REGARDING
Issue Date: March 25, 2008 : PATENT TERM ADJUSTMENT
Application No. 10/781,810 : AND
Filed: February 20, 2004 : NOTICE OF INTENT TO ISSUE
Atty Docket No. 03500.017916. : CERTIFICATE OF CORRECTION

This is in response to the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT" filed April 30, 2008. Patentees disclose that the PAIR system indicates an incorrect number of days of patent term adjustment.

The request for review of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred thirty-nine (339) days.

On March 25, 2008, the above-identified application matured into U.S. Patent No. 7,347,420. The Patent issued with a revised Patent Term Adjustment of 459 days. Patentees disclose that the patent term adjustment may be incorrect, but do not state a basis for their disclosure.

Nonetheless, a review of the record supports a conclusion that entry of a period of reduction is warranted. 37 CFR 1.704(c) provides, in pertinent part, that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months; ...

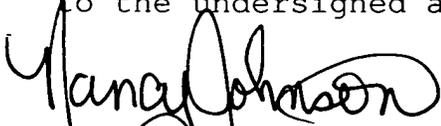
On October 15, 2007, after the mailing of the notice of allowance on September 27, 2007, patentees filed a paper entitled a REQUEST FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT AND REFERENCES CITED THEREIN. The IDS did not include a §1.704(d) statement. A 1449, the acknowledgment of the IDS, is in the image file wrapper and is dated February 20, 2008. The patent issued on March 25, 2008. Thus, the period of reduction pursuant to 37 CFR 1.704(c)(10) is properly calculated as the lesser period of four months. Accordingly, a period of reduction of 120 days for applicant delay has been entered.

In view thereof, the patent term adjustment indicated on the patent should be THREE HUNDRED THIRTY-NINE (339) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED THIRTY-NINE (339) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is written in a cursive, flowing style with a large initial "N".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,347,420 B2

DATED : **March 25, 2008**

DRAFT

INVENTOR(S) : Kobayashi 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 459 days

Delete the phrase "by 459 days" and insert – by 339 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-28-09

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/781819 Patent No.: 7493353

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



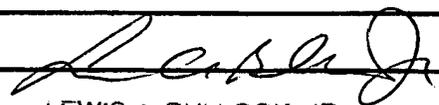
Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- | | |
|--|---|
| <input checked="" type="checkbox"/> Approved | All changes apply. |
| <input type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: _____



LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER 2193



MGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

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OFFICE OF PETITIONS

In Application of :
Asaoka, et al. :
Application No.: 10/781,820 : ON PETITION
Filed: February 20, 2004 :
Attorney Docket No.: H64-163097M/MNN :
For: BELT UNIT OF
ELECTROPHOTOGRAPHIC PRINTING
APPARATUS

This is a decision on the petition under 37 CFR 1.181, filed September 7, 2006, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the non-final Office action, mailed November 30, 2005, which set an extendable three (3) month period for reply. No reply being received, the Office contended that this application became abandoned on March 1, 2006. A Notice of Abandonment was mailed on July 7, 2006.

Petitioners allege that the November 30, 2005 non-final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.¹

¹ See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have proven non-receipt. Practitioner and Mary C. Gibb, Manager of the Docketing Department in the law firm of McGinn Intellectual Property Law Group, PLLC, have attested to a fruitless search of the file jacket and docket records. Petitioner has referenced docket records where the non-received Office communication would have been entered had it been received.

Furthermore, there was an irregularity in the mailing of the November 30, 2005 non-final Office action. The correspondence in question was **returned** to the Office on December 1, 2005.

The petition is granted, the holding of abandonment is withdrawn, and the July 7, 2006 Notice of Abandonment is vacated.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2852 for the re-mailing of the November 30, 2005 non-final Office action with a new period for response.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
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

MAR 18 2005

Howard A. Kenyon
19620 S. Jeffrey Circle
Cerritos CA 90703

In re Application of
Dean Tomabene
Serial No.: 10/781,836
Filed: February 20, 2004
For: Exercise Apparatus

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:
:

DECISION ON PETITION

This is in response to applicants' Petition filed April 9, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on prospective manufacture.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch, 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) 273-0275.

Richard A. Bertsch, 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

**JOHN R. ROSS
Trex Enterprises
10455 Pacific Center Ct.
San Diego CA 92121**

MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of :
Mikhail Blenkii et al :
Application No. 10/781,840 : **ON PETITION**
Filed: February 20, 2004 :
Attorney Docket No. 518 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 25, 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) (2).

Petitioner submitted a total of \$770.00 for the petition fee under 37 CFR 1.137(b), instead of the required fee of \$810.00 (small entity status).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.



Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**JOHN R. ROSS
TREX ENTERPRISES
10455 PACIFIC CENTER CT.
SAN DIEGO CA 92121**

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Mikhail Belenkii et al :
Application No. 10/781,840 : **DECISION ON PETITION**
Filed: February 20, 2004 :
Attorney Docket No. 518 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 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 amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed April 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 2613 for appropriate action by the Examiner in the normal course of business on the reply received January 21, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 08012006

DATE : May 12, 2006

TO SPE OF : ART UNIT 2188

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/781842 Patent No.: 6,982,422

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

Approved

All changes apply.

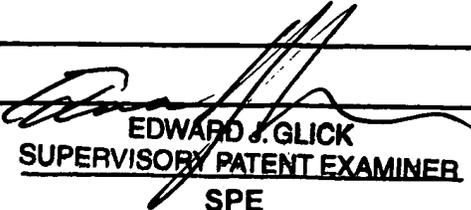
Approved in Part

Specify below which changes **do not** apply.

Denied

State the reasons for denial below.

Comments: _____


EDWARD J. GLICK
SUPERVISORY PATENT EXAMINER
SPE

2882
Art Unit



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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 04/29/2010

Applicant	: Piero Patrone Bonissone	: DECISION ON REQUEST FOR
Patent Number	: 7630928	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/781,871	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1636** 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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22011

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of :
Hsin Fen Hsu :
Application No. 10/781,888 : DECISION GRANTING PETITION
Filed: February 20, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 3101-210 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2006, to revive the above-identified application.

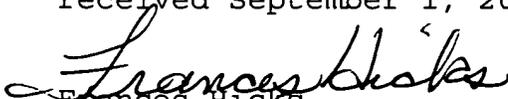
The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on April 28, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the \$750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 30, 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 2814 for appropriate action in the normal course of business on the reply received September 1, 2006.


Frances Hicks
Petitions Examiner
Office of Petitions



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WASHINGTON DC 20037-3213

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OFFICE OF PETITIONS

In re Patent No. 7288741 :
Issue Date: 10/30/2007 :
Application No. 10/781911 : ON PETITION
Filed: 02/20/2004 :
Attorney Docket No. Q79997 :

This is a decision on the petition filed November 27, 2007, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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OFFICE OF PETITIONS

KIRK SANFORD
9511 GRAPEFRUIT STREET
HESPERIA CA 92345

In re Application of :
Helmus et al. :
Application No. 10/781,932 : ON APPLICATION FOR
Filed: February 20, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. 03-081 :
Title: BIOMATERIALS FOR :
ENHANCED HEALING :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.705(b)," filed December 3, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred and seventy-two (472) days, not one hundred and sixty-nine (169) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

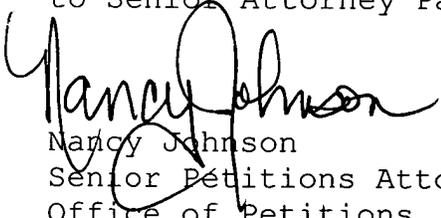
It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Applicant 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 Applicant. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Applicant will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Applicant's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanowski at (571) 272-3225.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: David B. Bonham
Mayer & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090



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THOMAS R. LAMPE
BIELLEN, LAMPE & THOEMING
1390 WILLOW PASS ROAD, SUITE 1020
CONCORD CA 94520

MAILED

JUN 08 2010

In re Patent No. 6,928,768 :
Issue Date: August 16, 2005 :
Application No. 10/781,952 :
Filed: February 19, 2004 :
Attorney Docket No. HOT FOOT #3 :

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed February 5, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 17, 2009 for failure to pay the 3.5-year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362 (e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions



ADAM K. SACHAROFF
MUCH SHELIST FREED DENENBERG AMENT & RUBENSTEIN, PC
191 N. WACKER DRIVE
SUITE 1800
CHICAGO IL 60606-1615

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OCT 05 2005

OFFICE OF PETITIONS

In re Application of :
Steven Rehkemper :
Application No. 10/781,960 : DECISION ON PETITION
Filed: February 20, 2004 :
Attorney Docket No. 4004013.0096 :

This is a decision on the petition under 37 CFR 1.137(f), filed August 19, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 10, 2005. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, 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 eighteen months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the 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 present 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 forty-five 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 Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of January 12, 2006, accompanies this decision on petition.

The \$750.00 petition fee will be charged to petitioner's Deposit Account as requested.

This matter is being referred to Technology Center Art Unit 1744.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing



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SEP 26 2005

BROWN & MICHAELS, PC
400 M & T BANK BUILDING
118 NORTH TIOGA ST
ITHACA, NY 14850

In re application of : **DECISION ON PETITION**
John F. Schickler : **TO MAKE SPECIAL**
Application No. 10/781,961 : **(INFRINGEMENT)**
Filed: February 19, 2004 :
For: PARTS SEARCH SYSTEM :

This is a decision on the petition under 37 C.F.R § 1.102(d) filed September 1, 2005 to make the above-identified application special.

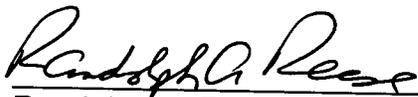
The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed September 1, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 09/12/05



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OCT 05 2005

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK NY 10017

In re Application of :
Coni F. Rosati :
Serial No.: 10/781,965 : **DECISION ON PETITION**
Filed: February 18, 2004 :
For: Method and Apparatus For Supplying :
Gas To An Area :

This is in response to the petition applicant filed on June 24, 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 R. 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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OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Balaji S. Thenthiruperai	: DECISION ON REQUEST FOR
Patent Number	: 7602899	: RECALCULATION OF PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/781,966	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1639** 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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096
ST. LOUIS, MO 63105-3441

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JUN 15 2007

In re Application of :
Wolfgang LUDWIG :
Application No. 10/782,007 :
Filed: February 12, 2004 :
Attorney Docket No. 22824 :

OFFICE OF PETITIONS

**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 26, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stuart T. F. Huang on behalf of all attorneys of record who associated with customer No. 20277.

All attorneys/agents associated with Customer Number 20277 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 assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed March 19, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.



April Wise
Petitions Examiner
Office of Petitions

cc: MR. RALF LUDWIG
WOLF-TEC, INC.
20 KIEFER LANE
KINGSTON, NY 12401


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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/782,007	02/12/2004	Wolfgang Ludwig	22824

CONFIRMATION NO. 5412

20277
 MCDERMOTT WILL & EMERY LLP
 600 13TH STREET, N.W.
 WASHINGTON, DC 20005-3096



Date Mailed: 06/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/26/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Deanne Godwyn
 Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
 FORMER ATTORNEY/AGENT COPY



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Andrew S. McConnell
Boyle, Frederickson, S.C.
840 North Plankinton Avenue
Milwaukee, WI 53203

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of :
Wolfgang Ludwig :
Application No. 10/782,007 : DECISION ON PETITION
Filed: February 12, 2004 :
Title: Method of Processing of Meat :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 29, 2008 to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed March 19, 2007. The Office Action set a one (1) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 20, 2007. A Notice of Abandonment was mailed October 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the restriction requirement, (2) the petition fee of \$770.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). 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.

A five (5) 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, \$1,115.00 will be credited.

A Revocation of Power of Attorney and Appointment of New Attorneys was submitted on January 11, 2008. However, the Power of Attorney will not be entered. Pursuant to 37 CFR 1.32 except the use of a customer number, the Office will not recognize more than ten patent practitioners as being of record in an application or patent. If a power of attorney names more than ten patent practitioners, such power of attorney must be accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office as being of record in the application or patent to which the power of attorney is directed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received



Charlema Grant
Petitions Attorney
Office of Petitions



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000027683
David M. O'Dell
HAYNES AND BOONE
901 Main Street, Suite 3100
Dallas, Texas 75202-3789

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JUL 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Harikrishnan Bhaskaran	:	
Application No. 10/782,009	:	DECISION ON PETITION
Filed: February 19, 204	:	TO WITHDRAW
Attorney Docket No. 30215.77	:	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 29, 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 David M. O'Dell on behalf of all attorneys of record who are associated with customer 000027683.

All attorneys/agents associated with the Customer Number 000027683 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.


David Bucci
Petitions Examiner
Office of Petitions

cc: Harikrishnan Bhaskaran
6069 Belt Line Road #1005
Dallas, TX 75254

cc: Mark L. Watson
Blakely, Sokoloff, Taylor, & Zafman
8055 East Tufts Avenue, Suite 1300
Denver, Colorado 80237



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**RONALD B. SHERER
BARTLETT & SHERER
103 SOUTH SHAFFER DRIVE
NEW FREEDOM PA 17349**

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JAN 26 2007

OFFICE OF PETITIONS

In re Application of :
AYLING :
Application No. 10/782,016 : **DECISION ON PETITION**
Filed: February 19, 2004 :
Attorney Docket No. AYL-2-CONT-2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 6, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed July 6, 2006. Accordingly, the date of abandonment of this application is October 7, 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 the Monica Graves at (571) 272-7253.

This application is being referred to Publishing Division for processing into a patent.

Sherry Brinkley
Petitions Examiner
Office of Petitions



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JOSHUA D. ISENBERG
JDI PATENT
809 CORPORATE WAY
FREMONT, CA 94539

Mail Date: 05/21/2010

Applicant : Dong Yu : DECISION ON REQUEST FOR
Patent Number : 7663057 : RECALCULATION of PATENT
Issue Date : 02/16/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/782,017 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/19/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1198** 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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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

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JUN 05 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Fox, et al. :
Application No. 10/782,018 :
Filed: February 19, 2004 :
Attorney Docket No. BHA/017 :

This is a decision on the petition under 37 CFR 1.181, filed February 13, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

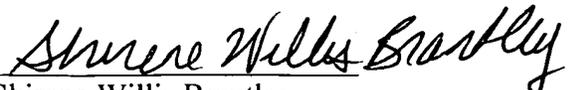
This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed July 11, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on October 12, 2007 for failure to reply to the July 11, 2007 non-final Office action. A Notice of Abandonment was mailed on January 16, 2008.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely received in the Office on January 11, 2008. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee was charged on January 14, 2008. The mailroom date for the payment was January 11, 2008. Therefore, the three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the January 16, 2008 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

Accordingly, the application file will be forwarded to Technology Center A.U. 3611 for consideration of the amendment filed on January 11, 2008.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



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JONATHAN A. SMALL
JAS IP CONSULTING
343 SECOND STREET
SUITE F
LOS ALTOS, CA 94022

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JAN 16 2008

OFFICE OF PETITIONS

In re Patent No. 7,158,947 :
Issue Date: January 2, 2007 :
Application No. 10/782,023 : **ON PETITION**
Filed: February 18, 2004 :
Attorney Docket No. NE1.008 :

This is a decision on the petition filed February 8, 2007, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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JUN - 2 2005

SEED INTELLECTUAL PROPERTY LAW GROUP, PLLC
 701 FIFTH AVENUE
 SUITE 6300
 SEATTLE, WA 98104-7092

In re Application of :
 John G. Bauman et al :
 Serial No.: 10/782,024 : PETITION DECISION
 Filed: February 18, 2004 :
 Attorney Docket No.: 140140.401 :

This is in response to the petition under 37 CFR 1.144, filed March 16, 2005, 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 18, 2004, and contained claims 1-17. In a first Office action, mailed August 25, 2004, the examiner required restriction between the inventions claimed, as follows:

Group I – Claims 1-5 drawn to Lipoxin A4 analogs;
 Group II – Claims 6-7, 10-12 and 15-17 drawn methods of treating inflammatory or autoimmune disorders with the compounds of claim 1; and
 Group III – Claims 8-9 and 13-14 drawn to a method of treating pulmonary or respiratory tract inflammation using the compounds of claim 1.

An election of species was also required for whichever group was elected.

The examiner reasoned that the compounds and methods of use were separate and distinct inventions based on use of the product in other materially different methods.

Applicants replied on September 27, 2004, electing the compounds of Group I with traverse. Applicants argued that the examiner has failed to establish a separate classification for the groups, a separate status in the art or different fields of search. Applicants also elected a species, as required.

The examiner mailed a new Office action to applicants on December 16, 2004, acknowledging the election of Group I and the species, but maintaining the requirement and making it Final.

However, the examiner also indicated that the claims would be rejoined. Claims 1-2 and 6-17 were then rejected under 35 U.S.C. 102(b) as anticipated by Serban. Claims 3-5 were withdrawn as being directed to a non-elected species.

This petition was filed on March 16, 2005, and traverses the finality of the restriction requirement as in error. Applicants appear have concurrently replied to the Office action as of the date of this decision.

DISCUSSION

The review of the prosecution history is somewhat confusing. In the initial restriction requirement between process and product claims the examiner should have included a form paragraph on rejoinder if product claims were elected for prosecution. This appears to have been an oversight by the examiner since in response to the traversal of the restriction requirement the examiner rejoined all of the method claims with the product claims.

Applicants' petition appears to be directed to only those claims which were then withdrawn, claims 3-5, directed to subgenus claims or individual species. In response to the requirement to elect a species applicants elected a species encompassed by claims 3 and 4 and specifically claimed in claim 5. Thus withdrawal of these claims in view of the species elected was in error and they will be examined with product claims 1-2.

DECISION

The petition is **GRANTED**. The withdrawal of claims 3-5 as directed to non-elected species is withdrawn.

No petition fee is required for this petition and the petition fee paid of \$130.00 will be credited to applicants Deposit Account No. 19-1090, as directed.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Bruce M. Kisliuk
Director, Technology Center 1600



**KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004**

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APR 24 2007

OFFICE OF PETITIONS

In re Application of :
Michael Pesachovich et al :
Application No. 10/782,047 : **DECISION ON PETITION**
Filed: February 19, 2004 :
Attorney Docket No. 1662/62102 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 13, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of \$1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3728 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

A handwritten signature in cursive script that reads "Karen Creasy". The signature is written in black ink and is positioned above the printed name and title.

Karen Creasy
Petitions Examiner
Office of Petitions



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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/10/2010

Applicant : Anuj Batra : DECISION ON REQUEST FOR
Patent Number : 7634020 : RECALCULATION of PATENT
Issue Date : 12/15/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/782,095 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/19/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1532** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,096	02/19/2004	Nadinc Carozzi	045600/274148	5854
826	7590	03/20/2009	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			KUBELIK, ANNE R	
			ART UNIT	PAPER NUMBER
			1638	
			MAIL DATE	DELIVERY MODE
			03/20/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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MAR 20 2009

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of: :
Carozzi et al. :
Serial No.: 10/782,096 : PETITION DECISION
Filed: February 19, 2004 :
Attorney Docket No.: 045600/274148 :

This is in response to the petition under 37 CFR § 1.59(b), filed March 17, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on November 26, 2008, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte* Quayle action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.


Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600



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MERCHANT & GOULD (MICROSOFT)
P. O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Benoit Barabe et al :
Application No. 10/782,132 : DECISION GRANTING PETITION
Filed: February 18, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50037.221US01 :

This is a decision on the petition, filed September 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

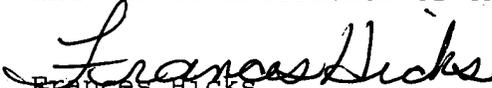
The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 6, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2629 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\Sept10\782132.wpd

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.



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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 11 2008

OFFICE OF PETITIONS

In re Patent No. 7,123,149 :
Issue Date: October 17, 2006 :
Application No. 10/782,135 :
Filed: February 19, 2004 :
Attorney Docket No. 1587.040US1 :

NOTICE

This is a notice regarding the 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.

The 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.

Liana Walsh
Petitions Examiner
Office of Petitions



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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/782,141	02/19/2004	1638	520	045600/274143	3	23	4

CONFIRMATION NO. 5814

00826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

UPDATED FILING RECEIPT



OC000000013092513

Date Mailed: 06/28/2004

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)

Nadine Carozzi, Raleigh, NC;
Tracy Hargiss, Cary, NC;
Michael G. Koziel, Raleigh, NC;
Nicholas B. Duck, Apex, NC;
Brian Carr, Raleigh, NC;

Assignment For Published Patent Application

Athenix Corporation, Durham, NC;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/448,632 02/20/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/12/2004

Projected Publication Date: 10/07/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

AXMI-014, delta-endotoxin gene and methods for its use

Preliminary Class

435

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,141	02/19/2004	Nadine Carozzi	045600/274143	5814
826	7590	03/20/2009	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			KUBELIK, ANNE R	
			ART UNIT	PAPER NUMBER
			1638	
			MAIL DATE	DELIVERY MODE
			03/20/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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MAR 20 2009

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ALSTON & BIRD LLP
 BANK OF AMERICA PLAZA
 101 SOUTH TRYON STREET, SUITE 4000
 CHARLOTTE NC 28280-4000

In re Application of: :
 Carozzi et al. :
 Serial No.: 10/782,141 : PETITION DECISION
 Filed: February 19, 2004 :
 Attorney Docket No.: 045600/274143 :

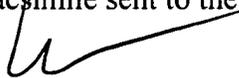
This is in response to the petition under 37 CFR § 1.59(b), filed March 17, 2009, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on November 26, 2008, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.


 Marianne C. Seidel
 Quality Assurance Specialist
 Technology Center 1600



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ICE MILLER LLP
ONE AMERICAN SQUARE
SUITE 3100
INDIANAPOLIS, IN 46282-0200

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AUG 30 2007

OFFICE OF PETITIONS

In re Application of :
Ghassan S. Kassab et al :
Application No. 10/782,149 : DECISION GRANTING PETITION
Filed: February 19, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ELECAT.003A :

This is a decision on the petition, filed August 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 15, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 3736 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\aug10\782149.wpd

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.



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300 SOUTH WACKER DRIVE
SUITE 2500
CHICAGO, IL 60606

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JUL 31 2007

OFFICE OF PETITIONS

In re Patent No. 6,867,548 :
Issue Date: March 15, 2005 :
Application No. 10/782,164 : **NOTICE**
Filed: February 19, 2004 :
Attorney Docket No. 1201.75218 :

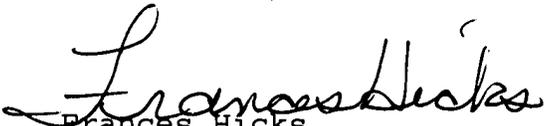
This is a notice regarding your request, filed September 14, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. See 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions



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P.O. Box 1450
Alexandria, VA 22313-1450
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DW Feb-07

FASKEN MARTINEAU DUMOULIN LLP
2100 - 1075 WEST GEORGIA STREET
VANCOUVER BC V6E 3G2
CANADA

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FEB 21 2007

OFFICE OF PETITIONS

In re Application of :
Malcolm Thomas Hammond :
Application No. 10/782,174 : ON PETITION
Filed: 20 February, 2004 :
Atty Docket No. 263593.00002 :

This is a decision on the petition, filed on 14 July, 2006, 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 3 June, 2004. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m);
and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 31 May, 2007, is enclosed herewith.

The application is being referred to Technology Center Art Unit 3782 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication
Request and/or Notice of Foreign Filing


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/782,174	02/20/2004	Malcolm Thomas Hammond	263593.00002

CONFIRMATION NO. 4503

Fasken Martineau DuMoulin LLP
 2100 - 1075 West Georgia Street
 Vancouver, BC V6E 3G2

CANADA

Date Mailed: 02/20/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/31/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"¹ then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

¹ Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

 PART 1 - ATTORNEY/APPLICANT COPY



POLSTER, LIEDER, WOODRUFF & LUCCHESI
12412 POWERSCOURT DRIVE SUITE 200
ST. LOUIS MO 63131-3615

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JUN 09 2006

OFFICE OF PETITIONS

In re Application of :
Melboume F. Giberson et al. : **ON PETITION**
Application No. 10/782,205 :
Filed: February 19, 2004 :
Attorney Docket No. TR18300D7 :

This is a decision on the petition filed May 5, 2006, to withdraw the holding of abandonment of the above-identified application under 37 CFR 1.181.

The petition is **GRANTED**.

The above-referenced application was held abandoned on December 12, 2003 for failure to file a proper reply to a Final Office Action mailed September 11, 2003 in compliance with 37 CFR 1.113. Accordingly, a Notice of Abandonment was mailed November 16, 2004.

A Notice to File Missing Parts mailed May 14, 2004 required the filing of an Oath or Declaration. In response thereof, on May 24, 2004, petitioner filed an oath or declaration from parent application 10/171,125 naming five inventors, executed by all inventors except the fifth named inventor, Robert D. Walker. A Notice of Incomplete mailed June 3, 2004 advised that the period for response continued to run from May 14, 2004, the mailing date of the Notice to File Missing Parts and that the response filed May 24, 2004 did not include the signature of joint inventor Robert D. Walker. Petitioners then responded on June 10, 2004 with an explanation that the inventorship of parent application 10/171,125, of which the instant application is a division, had been corrected by preliminary amendment and that Robert D. Walker was not an inventor in the parent application or the instant divisional application.

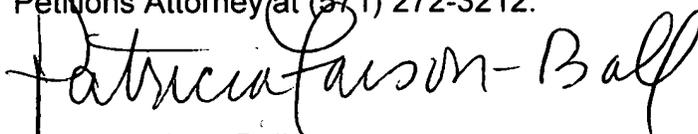
Although the oath or declaration filed herein does in fact have Robert D. Walker included as an inventor, a review of the file record of the parent application reveals that Robert D. Walker's name is not included in the file history and is not included on the face of the issued patent. Furthermore, as the oath or declaration was timely filed and as the explanation of inventorship was timely filed in response to the Notice of

Incomplete Reply, pursuant to 37 CFR 1.63(d)(1) and(2)¹, petitioners had substantially complied with the Notices mailed and thus the application should not have been deemed as abandoned.

In view thereof, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter is being referred to the Office of Initial Patent Examination to remove the name of Robert D. Walker from this application, for the mailing of a corrected filing receipt and for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹37 CFR 1.63:

(d) (1) A newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application, provided that:

(i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;

(ii) **The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;**

(iii) The specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application; and

(iv) A copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.

and

(d) (2) The copy of the executed oath or declaration submitted under this paragraph for a continuation or divisional application must be accompanied by a statement requesting the deletion of the name or names of the person or persons who are not inventors in the continuation or divisional application.



MARK LEVY & ASSOCIATES PLLC
PRESS BUILDING SUITE 902
19 CHENANGO STREET
BINGHAMTON NY 13901

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MAR 03 2008

OFFICE OF PETITIONS

In re Application of
Yao, et al :
Application No. 10/782,230 : DECISION ON
Filed: February 19, 2004 : PETITION
Attorney Docket No. RB-176 :

This is in response to the petition to revive under 37 CFR 1.137(a), or in the alternative under 37 CFR 1.137(b), filed February 6, 2008.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 3, 2007. This Notice set a statutory period for reply of three months. No issue fee having been received, the application became abandoned on January 4, 2008. The Office mailed a Notice of Abandonment on January 29, 2008.

Petition Under 37 CFR 1.137(a):

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."¹

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.²

With regards to item (3), petitioner states that he never received the Notice of Allowance. According to petitioner, the Notice of Allowance was properly mailed to the law firm of Mark Levy & Associates. However, petitioner had transferred responsibility for the instant application to another law firm. Petitioner has included a declaration from Mark Levy, attesting that upon receiving the Notice of Allowance, he forwarded it to petitioner on October 12, 2007. However, petitioner states he never received the Notice of Allowance from Levy.

To establish nonreceipt of an Office action, a petitioner must: (1) include a statement that the Office action was not received; (2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and (3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.³ A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."⁴ "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action

¹ In re Mattulath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

² See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

³ See MPEP 711.03(c)(II).

⁴ MPEP 711.03(c)(II) (emphasis added).

must be submitted..."⁵

With the instant petitioner under 37 CFR 1.137(a), petitioner has not included a copy of his docket records showing where the nonreceived Notice of Allowance would have been entered had it been received and docketed.

Receipt of the fee for the petition under 37 CFR 1.137(a) is acknowledged. The petition fee required for a petition to revive is required for the filing, not merely the grant, of the petition.⁶

Petition Under 37 CFR 1.137(b):

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

With the instant petition, petitioner has paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee and form PTOL-85B.

Receipt of the fee for the petition under 37 CFR 1.137(b) is acknowledged.

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

⁵ Id.

⁶ See MPEP 711.03(c)(II)(B).

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

cc: Steven M. Hoffberg
Milde & Hoffberg LLP
10 Bank Street
Suite 460
White Plains, New York 10606



UNITED STATES PATENT AND TRADEMARK OFFICE

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MENDELSON, DRUCKER, & ASSOCIATES, P.C.
1500 JOHN F. KENNEDY BLVD., SUITE 405
PHILADELPHIA, PA 19102

Mail Date: 07/07/2010

Applicant : Lothar Benedict Moeller : DECISION ON REQUEST FOR
Patent Number : 7643761 : RECALCULATION of PATENT
Issue Date : 01/05/2010 : TERM ADJUSTMENT IN VIEW
Application No : 10/782,231 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/19/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **792** 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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PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :
Gerard Harbers et al :
Application No. 10/782,248 : DECISION GRANTING PETITION
Filed: February 18, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. LUM-03-08-01 US :

This is a decision on the petition under 37 CFR 1.137(b), filed February 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The 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 August 2, 2006, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Application No. 10/782,248

-2-

This matter is being referred to Technology Center AU 2814.



Karen Creasy
Petitions Examiner
Office of Petitions

CC:

MICHAEL J. HALBERT
2350 MISSION COLLEGE BLVD.,
STE. 360
SANTA CLARA, CA 95054


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
10/782,311	02/18/2004	3624	856	NEXTP005C1	14	8	4

CONFIRMATION NO. 7626
CORRECTED FILING RECEIPT


OC000000013145152

 21912
 VAN PELT & YI LLP
 10050 N. FOOTHILL BLVD #200
 CUPERTINO, CA 95014

Date Mailed: 07/06/2004

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)

 Jeremy Lent, San Francisco, CA;
 Timothy Coltrell, San Francisco, CA;
 Munnamgi S. Reddi, San Francisco, CA;
 Christopher O. Tracy, San Francisco, CA;
 TaChung Huang, San Francisco, CA;

Assignment For Published Patent Application

NextCard Inc.;

Domestic Priority data as claimed by applicant

 This application is a CON of 09/595,556 06/15/2000 PAT 6,718,313
 which is a CIP of 09/185,201 11/03/1998 PAT 6,405,181
 and is a CIP of 09/185,878 11/03/1998 PAT 6,567,791
 and is a CIP of 09/185,000 11/03/1998 PAT 6,324,524

Foreign Applications

If Required, Foreign Filing License Granted: 05/13/2004

Projected Publication Date: 09/02/2004

Non-Publication Request: No

Early Publication Request: No

Title

Integrating live chat into an online credit card application

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

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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OFFICE OF PETITIONS

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

In re Patent No. 7,580,482
Issued: August 25, 2009
Application No. 10/782,316
Filed: February 19, 2004
Attorney Docket No: 320529180US1

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(D) filed on October 23, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 613 days to 1284 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighty-three (1283) 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 19, 2007 and ends on March 12, 2009, the day before the RCE was filed, and the B delay considering the 44 days of overlap is 752 (not 753) days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 708 days. As such, the patent term adjustment is 1283, not 1284 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 two hundred eighty-three (1283) days**.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT
UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,580,482 B2

DATED : August 25, 2009

INVENTOR(S) : Thomas J. Endres

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 (613) days

Delete the phrase "by 613 days" and insert – by 1283 days--



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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant : Thomas J. Endres : DECISION ON REQUEST FOR
Patent Number : 7580482 : RECALCULATION of PATENT
Issue Date : 08/25/2009 : TERM ADJUSTMENT IN VIEW
Application No : 10/782,316 : OF WYETH AND NOTICE OF INTENT TO
Filed : 02/19/2004 : ISSUE CERTIFICATE OF CORRECTION
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1953** 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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TOD R. NISSLE, P.C.
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PHOENIX, AZ 85078

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OFFICE OF PETITIONS

In re Application of :
Winterstein, James S. :
Application No. 10/782,333 :
Filed: February 19, 2004 :
Attorney Docket No. 1135-P-1 :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 12, 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 Replacement Drawings; (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 Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.


Liana Walsh
Petitions Examiner
Office of Petitions



**TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110**

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AUG 01 2007

In re Application of
BAILEY, James Lee
Application No. 10/782,338
Filed: February 18, 2004
Attorney Docket No. **3142-6178US**

OFFICE OF PETITIONS

**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 08, 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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on February 14, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ANDREW LIMPERT
1245 EAST BRICKYARD ROAD
SUITE 590
SALT LAKE CITY, UTAH 84106**



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Paper No. None

Cathryn Campbell
McDERMOTT, WILL & EMERY
7th Floor
4370 La Jolla Village Drive
San Diego CA 92122

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OFFICE OF PETITIONS

In re Application of	:	
Stefan M. Pulst et al.	:	
Application No. 10/782,375	:	DECISION ON PETITION
Filed: February 18, 2004	:	UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: 66783-145	:	
Title: PARKIN INTERACTING	:	
POLYPEPTIDES AND METHODS OF USE	:	

This is a decision on the petition, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application, filed on July 12, 2005.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed August 13, 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 November 14, 2004. A Notice of Abandonment was mailed on May 13, 2005.

With the present petition, Petitioner has submitted the petition fee, the basic filing fee, a declaration, the fee associated with the late submission of the same, a sequence listing, and the proper statement of unintentional delay.

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.

As such, the petition is **GRANTED**.

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 Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office



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WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of Oshima et al. :
Application No. 10/782,411 : Decision on Petition
Filing Date: February 20, 2004 :
Attorney Docket No. 2004_0262 :

This is a decision on the December 17, 2007 "Petition Under 37 CFR 1.183 to Accept Substitute Specification in Reissue Application." The petition requests waiver of the prohibition in 37 CFR 1.125(d) against the filing of a substitute specification in a reissue application. The petition is also being treated as a request to waive 37 CFR 1.173(a)(1) in addition to 37 CFR 1.125(d).

The petition is **granted**.

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application.

37 CFR 1.173(a)(1) requires a specification be in the form of "a copy of the printed patent, in double column format." The substitute specification is not a copy of the printed patent in double column format. Therefore, in order for relief to be granted, the Office must waive the requirements of 37 CFR 1.173(a)(1).

Petitioner's request is the result of the fact that in "a telephone conversation with the Examiner in connection with reissue application 09/686,464, which is also a divisional application of reissue application 09/244,037, the Examiner required a substitute specification and indicated that substitute specifications would be required in all of the related reissue applications of U.S. patent 5,600,672 if the same specification amendments were to be entered."

The examiner's requirement for a substitute specification is deemed appropriate. There is no way for petitioner to comply with the examiner's requirement absent waiver of the rules. Therefore, the petition is granted and the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) are hereby waived.

Technology Center Art Unit 2611 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Yixin Wang : DECISION GRANTING PETITION
Application No. 10/782,413 :
Filed: February 19, 2004 :
Attorney Docket No. VDX-5002 CIP :

This is in response to the Request for a Corrected Filing Receipt, filed August 24, 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 19, 2004, rather than the presently accorded filing date of February 18, 2004.

Petitioner asserted that petitioner deposited the above-identified application with the USPS using "Express Mail Service" on February 19, 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. EV312158503US on February 19, 2004, at 4:19 PM in Highland Park, New Jersey 08904. 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 19, 2004, and to mail a corrected filing receipt.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



PHILIP S. JOHNSON
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NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Yixin WANG :
Application No. 10/782,413 : DECISION ON PETITION
Filed: February 19, 2004 :
Attorney Docket No. VDX-5002 CIP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 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 Restriction Requirement, mailed December 30, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 31, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 3.

The showing of record raises questions as to whether the abandonment of this application was unintentional within the meaning of 35 USC 41(a)(7) and CFR 1.137(b).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of \$500 or a fee of \$50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See *In re Application of G*, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 31, 2006. If possible, that party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). As Susan K. Lehnhardt (Lehnhardt) was the party having the right to reply at the date of abandonment, Lehnhardt should explain, why this application became abandoned while it was under her control and what efforts she made to further reply and with whom this matter was discussed. When did Lehnhardt become aware of the abandonment of this application? The record does not show with substantiating evidence what the intent was with regard to this application prior to the date of abandonment on January 31, 2006.

Petitioner should explain why this application became abandoned and what efforts were made to further reply and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), petitioner and whoever else was involved with this application at the time of abandonment. Statements are required from person(s) in the law office and, if possible, the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See Lawman Armor v. Simon*, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); *Field Hybrids, LLC v. Toyota Motor Corp.*, 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); *Lumenyte Int'l Corp. v. Cable Lite Corp.*, Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification,

"unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23.

An explanation from petitioner as to why the long delay in seeking revival should be excused is required despite this delay, independently of the delay in replying which caused abandonment in the first instance.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S. District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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 \$1640 extension of time fee submitted with the petition on May 12, 2008, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account 10-0750.

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.

Any renewed petition may be addressed as follows:

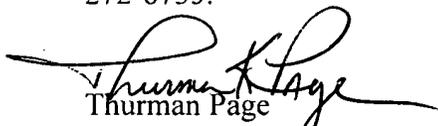
By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By 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**.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.


Thurman Page
Petitions Examiner
Office of Petitions



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MS-LC340
MINNEAPOLIS, MN 55432-5604

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OFFICE OF PETITIONS

In re Application of	:	REQUEST FOR ADDITIONAL
Laske, et al.	:	INFORMATION
Application No. 10/782,420	:	
Filed: February 19, 2004	:	
Docket No.: P-10756.02	:	

This letter is in response to the "PETITION IN RESPONSE TO NOTICE OF MISSING PARTS OF NONPROVISIONAL APPLICATION," filed August 9, 2004.

The application was submitted February 19, 2004. The Office of Initial Patent Examination ("OIPE") mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") on July 21, 2004. The Notice indicated, *inter alia*, that the application had been accorded a filing date but that figures 14-15(b) appeared to have been omitted from the application papers as filed.

Prior to a rendering of a decision on the merits, the following information is required to be submitted: a copy figures 14-15(b).

A response to this request must be submitted within **TWO MONTHS** of the mailing date of above mail date in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136. Failure to timely respond will result in abandonment of the application.

Further correspondence with respect to this matter should be addressed as follows:

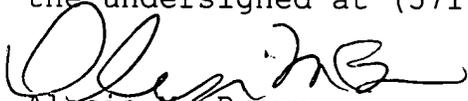
By mail:	Mail Stop Petition
	Commissioner for Patents
	P.O. Box 1450
	Alexandria, VA 22313-1450

By facsimile:	(703) 308-6916
---------------	----------------

By hand:

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to
the undersigned at (571) 272-3205.



Alesia M. Brown
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS, MN 55432-5604

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Laske, et al. : DECISION ON PETITION
Application No. 10/782,420 :
Filed: February 19, 2004 :
Docket No.: P-10756.02 :

This decision is in response to the "PETITION IN RESPONSE TO NOTICE OF MISSING PARTS OF NONPROVISIONAL APPLICATION," filed August 9, 2004 and supplemented December 1, 2004 in response to a request for additional information mailed October 26, 2004.

The application was submitted February 19, 2004. The Office of Initial Patent Examination ("OIPE") mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice") on July 21, 2004. The Notice indicated, *inter alia*, that the application had been accorded a filing date but that figures 14-16(b) appeared to have been omitted from the application papers as filed.

In response, a petition was filed August 9, 2004 wherein petitioners argued that the application as deposited included 25 sheets of drawings, including Figures 14-16b. Petitioners have included as proof of mailing and proof of receipt of the figures in question a return postcard date stamped by the Office on February 19, 2004. A copy of the drawings purportedly filed with the application on February 19, 2004 was also supplied December 1, 2004.

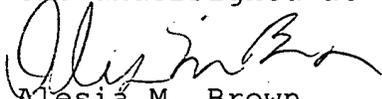
The original drawing sheets containing Figures 14-16b submitted with the application papers have not been located. However, in view of the evidence presented, the petition to accord the application a filing date of February 19, 2004 is GRANTED.

Since the original drawing sheets containing Figures 14-16b cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted \$130.00 petition fee has been requested from the Finance Office on petitioners' behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 19, 2004.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions



TED M. ANTHONY
PERRET DOISE
SUITE 1200
600 JEFERSON STREET
LAFAYETTE LA 70501

COPY MAILED
SEP 18 2006
OFFICE OF PETITIONS

In re Application of :
John D. Lundberg et al. : DECISION ON PETITION
Application No. 10/782,428 :
Filed: February 18, 2004 :
Title of Invention: **ROTARY ENGRAVING** :
APPARATUS :

This is a decision on the petition filed March 13, 2006, claiming non-receipt which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513. The petition is also filed 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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" or, "Renewed Petition under 37 CFR 1.137(b)". This is not a final agency decision.

¹Effective 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 require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned September 7, 2005, for failure to file a timely response to the Final Office Action mailed June 6, 2005 which set a three month period for reply. Accordingly a Notice of Abandonment was mailed December 29, 2005.

Petitioner argues that the Office Action was not received however, in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement that the Office communication was not received and attesting to the fact that a search of the 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 petitioner's statement.²

The evidence identified above is required to show that the petitioner arguing non-receipt is without fault in not receiving the communication. In this instance no docket records have been provided and, a review of the record reveals that the address of record is different from that found in the petition which raises the question as to when the correspondence address was changed and whether the non-receipt of the office action could be attributed to a change in address which was not communicated to the USPTO. Petitioner should provide evidence to show what the correct address was at the time the Final Office Action was mailed to refute any appearance that petitioner was with fault in not receiving the communication.

Under 37 CFR 1.137(b), the unintentional delay standard, the instant petition does not satisfy requirement (1) above.

The application became abandoned for failure to file a response within the meaning of 37 CFR 1.113 to the final rejection of June 6, 2005, within the time period for response. No response has been submitted with the petition to revive.

The only proper reply to a final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application.

Petitioner must submit a proper reply to the final Office action mailed on June 6, 2005, with any renewed petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

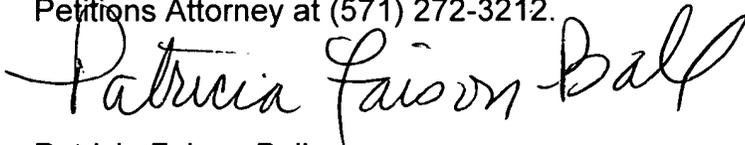
²M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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 concerning this matter may be directed to the undersigned
Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Application of :
Shanker Gupta et al :
Application No. 10/782,459 : DECISION ON PETITION
Filed: February 19, 2004 :
Attorney Docket No. 9022-42 :

This is a decision on the petition under 37 CFR 1.182, filed September 24, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

This application is currently before Technology Center AU 1614 for action on the reply received September 24, 2007 to the non-final Office action of June 22, 2007.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/782,459	02/19/2004	1614	1378	9022-42	37	5

CONFIRMATION NO. 4853

CORRECTED FILING RECEIPT



20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Date Mailed: 11/27/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Shanker Gupta, Rockville, MD;
C. Patrick Reynolds, Sherman Oaks, CA;
Barry J. Maurer, Sylmar, CA;
B. Rao Vishnuvajjala, Rockville, MD;

Power of Attorney: The patent practitioners associated with Customer Number 20792

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/14/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/782,459**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pharmaceutical compositions of safingol and methods of using the same

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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 : 04-09-09

TO SPE OF : ART UNIT 1614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/782459 Patent No.: 7476692

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



Angela Green

Certificates of Correction Branch
703-308-9390 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.

- | | |
|--|---|
| <input type="checkbox"/> Approved | All changes apply. |
| <input checked="" type="checkbox"/> Approved in Part | Specify below which changes do not apply. |
| <input type="checkbox"/> Denied | State the reasons for denial below. |

Comments: Mathematical expressions at col. 25, Line 51; col. 26, Line 16 & col. 26; Line 24 have not been changed because they are correct as printed, (e.g. "0.1" (not correct) ; "10.1" correct.



ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

SPE

Art Unit 1614

Attorney Docket No. 9022-42

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Gupta et al.

U.S. Patent No.: 7,476,692 B2

Application No.: 10/782,459

Issued: January 13, 2009

Filed: February 19, 2004

Confirmation No: 4853

For: PHARMACEUTICAL COMPOSITIONS OF SAFINGOL AND METHODS OF USING THE SAME

March 30, 2009

Commissioner for Patents

Attn: Certificate of Correction Branch

P.O. Box 1450

Alexandria, VA 22313-1450

**REQUEST FOR ENTRY OF CERTIFICATE OF CORRECTION UNDER
No. 35 U.S.C §254 AND 37 C.F.R. §1.322**

Sir:

The Assignee of record for the above-referenced patent hereby requests, pursuant to 35 U.S.C §254 and 37 C.F.R. §1.322, that a Certificate of Correction be issued. This request is made in order to correct the mistakes incurred through the fault of the U.S. Patent and Trademark Office. The mistakes appearing in the patent are set forth with corrections on the Certificate of Correction enclosed herewith.

No fee is believed due. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

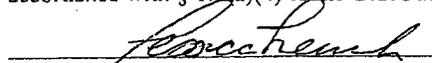
Respectfully submitted,


Shawna C. Lemon
Registration No. 53,888

Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428, Raleigh, NC 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Customer No. 20792

CERTIFICATION OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on March 30, 2009.



Jessica M. French

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 1 of 3

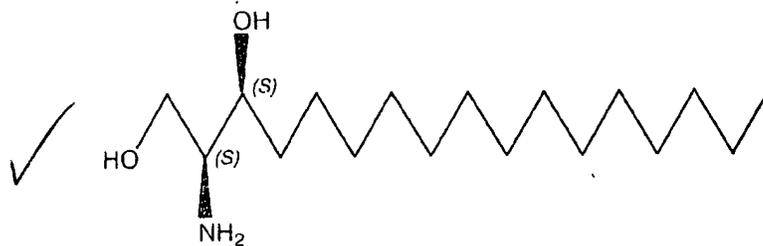
PATENT NO. : 7,476,692 B2
APPLICATION NO.: 10/782,459
ISSUE DATE: January 13, 2009
INVENTOR(S) : Gupta et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title Page:

Abstract, Item 57, Line 7: Please correct "0.1" to read -- .1 -- ("0.1" is mathematically correct)

Column 1, Lines 35 - 40: Please replace with the following structure illustrating correct shading:



Safingol (L-threo-dihydrosphinganine)

✓ Column 22, Line 13: Please add -- **Assay and Particle Size** -- before line 14 "Table 8"

Not Entered

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 2 of 3

Column 23 and 24, Table 10, Lines 13 -27: Please correct table alignment as follows:

Test	Requirements		Initial D1	Initial D2	Initial D3	3 Months	6 Months	9 Months
(data from BenVenue)			0.0421			0.0277	0.0272	0.0307
	≤ 0.2 microns	Mean	0.0232	N/A	N/A	0.0173	0.0174	0.0173
			0.0213			0.0176	0.0169	0.0175
HPLC Assay (% Label Claim)	90.0% to 110.0% LC		96.4	95.8	99.4	94.5	105.5	98.6
			94.8	96.6	100.0	94.2	105.1	99.9
						94.9	102.1	101.2
				Avg of 3:		94.5	104.2	99.9
Impurity * % total peak area	For Information Only	RRT 0.88- 0.90	0.3	0.3	0.4	0.1	0.4	0.4
Total Impurities % total peak area	For Information Only		0.3	0.3	0.4	0.1	0.4	0.4

Column 24, Table 11, Lines I – IX: Please correct “dinical signs” and “din path” to read -- clinical signs -- and -- clin path -- in the “Toxicity” column.

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

Page 3 of 3

In the Claims:

Column 25, Claim 10, Line 51: Please correct "0.1" to read -- .1 -- (0.1 is mathematically correct)

Column 26, Claim 16, Line 11: Please correct "pho sphatidylserine"
to read -- phosphatidylserine --

Column 26, Claim 17, Line 16: Please correct "0.03" to read -- .03 -- (0.03 is mathematically correct)

Column 26, Claim 19, Line 24: Please correct "0.1" to read -- .1 -- (0.1 is mathematically correct)

Column 26, Claim 22, Line 42: Please correct "phosphatidyicholine"
to read -- phosphatidylcholine --

MAILING ADDRESS OF SENDER:
Myers, Bigel, Sibley & Sajovec, P.A.
P.O. Box 37428
Raleigh, NC 27627



THORP REED & ARMSTRONG
ONE OXFORD CENTRE
301 GRANT STREET
PITTSBURGH, PA 15219-1425

COPY MAILED

NOV 03 2008

OFFICE OF PETITIONS

In re Application of :
PRICE, Alistair J. :
Application No. 10/782,464 : DECISION GRANTING PETITION
Filed: February 19, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **010826PCT-US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 3, 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 30, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2613 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). *Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*



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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25TH FLOOR
CHICAGO, IL 60606

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of :
Edward Sender, et. al. :
Application No. 10/782,476 : **ON PETITION**
Filed: February 19, 2004 :
Attorney Docket No. 0922.67392 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2009, to revive the above-identified application.

The application became abandoned for failure to file a proper response to the final Office action mailed on July 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) with the \$405 fee and the required submission under 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3611 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions