UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT LEE HARTLEY JR.
1109 BARBADOS AVENUE
MARION OH 43302

COPY MAILED
APR 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Lohr, et al	:	
Application No. 10/782,516	:	
Filed: February 18, 2004	:	ON PETITION
Attorney Docket No. 04015	:	
For: COMPOSITE HINGED DOOR AND	:	
INSERT THEREFOR	:	

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

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the August 10, 2004 Notice to File Missing Parts of Nonprovisional Application, which set an extendable two month period for reply. No reply being received, the Office considered this application abandoned on October 11, 2004. A Notice of Abandonment was mailed on May 13, 2005.

Petitioner asserts that the August 10, 2004 Notice was not received in practitioner's office. Petitioner argues that the failure of the USPTO to respond to a number of status inquiries makes the delay in responding to the August 10, 2004 Notice unavoidable and unintentional.

A review of the record indicates no irregularity in the mailing of the August 10, 2004 Notice, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record.

A review of transmittal submitted with the original application papers reveals that the Office was **expressly directed** to send correspondence to Customer Number 29879, which is:

ROBERT LEE HARTLEY JR.
1109 BARBADOS AVENUE
MARION OH 43302

The above address is precisely where the August 10, 2004 Notice was mailed.

A review of later filed correspondence leads the undersigned to believe that petitioner should have typed 20879, not 29879 on the transmittal letter.

An applicant is responsible for specifying a correct correspondence address. A delay caused by the failure on the part of the petitioner to provide the Office with a current correspondence address does not constitute an unavoidable delay. See Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995).

The application became abandoned because applicant did not inform the Office of the correct correspondence address; therefore, the petition under 37 CFR 1.137(a) is dismissed.

Petitioner is strongly encouraged to file a petition to revive under the unintentional standard of 137(b). A copy of the August 10, 2004 Notice is enclosed to allow petitioner to file a proper reply with the Rule 137(b) petition.

It is noted that only one of the two inventors has signed the declaration for patent application. A Rule 47a petition may be required for Mr. Lohr, if he has refused to sign the declaration or cannot be reached, despite diligent effort.

It would be inappropriate to enter the power of attorney/change of correspondence address signed by Mr. Brown at this time because Mr. Lohr's interest has not been accounted for.
(1) An assignee, complying with 37 CFR 3.73(b), intervening in Mr. Lohr's place,
(2) a grantable Rule 47(a) petition, or (3) Mr. Lohr's signature on the power of attorney/change of correspondence address is required to effectuate the changes.

A courtesy copy of this decision will be mailed to the customer number listed on the declaration.

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

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

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

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

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

Enclosure: August 10, 2004 Notice to File Missing Parts of Nonprovisional Application

CC: EMCH, SCHAFFER, SCHAUB & PORCELLO CO
P O BOX 916
ONE SEAGATE SUITE 1980
TOLEDO, OH 43697

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/782,516	02/18/2004	Dwight W. Lohr	04015

CONFIRMATION NO. 4707

FORMALITIES LETTER

"OC000000013491094"

29879
ROBERT LEE HARTLEY JR.
1109 BARBADOS AVENUE
MARION, OH 43302

Date Mailed: 08/10/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

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

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

SUMMARY OF FEES DUE:

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

- **$65** Late oath or declaration Surcharge.

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

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

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GALLAGHER & DAWSEY CO., L.P.A.
P.O. BOX 785
COLUMBUS OH 43216

COPY MAILED

JUL 27 2006

OFFICE OF PETITIONS

In re Application of
Lohr, et al
Application No. 10/782,516
Filed: February 18, 2004
Attorney Docket No. 04015
For: COMPOSITE HINGED DOOR AND INSERT THEREFOR

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2006 (certificate of mailing date April 18, 2006) to revive the above-identified application.

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the August 10, 2004 Notice to File Missing Parts of Nonprovisional Application, which set an extendable two month period for reply. No reply being received, the Office considered this application abandoned on October 11, 2004. A Notice of Abandonment was mailed on May 13, 2005.

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

(1) the required reply, unless previously filed.;

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

(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.

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

This petition does not meet requirement (1) set forth above.

As stated in the previous decision, "It is noted that only one of the two inventors has signed the declaration for patent application. A Rule 47a petition may be required for Mr. Lohr, if he has refused to sign the declaration or cannot be reached, despite diligent effort." Petitioner filed a 3.73(b) statement along with an employment agreement executed by Mr. Lohr on May 6, 2003 that shows Diamond Roll-up Door, Inc. has an interest in the invention. This submission does not satisfy the Notice to File Missing Parts. Mr. Lohr's signature is required on the declaration. A party in interest cannot sign the declaration on his behalf because the other joint inventor has signed the declaration.

A Rule 47(a) petition is required if Mr. Lohr has refused to sign the declaration or petitioner is unable to locate Mr. Lohr after diligent effort.

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

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

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

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

Telephone inquiries 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

GALLAGHER & DAWSEY CO., L.P.A.
P.O. BOX 785
COLUMBUS OH 43216

COPY MAILED

AUG 2 5 2006

OFFICE OF PETITIONS

In re Application of
Lohr, et al
Application No. 10/782,516
Filed: February 18, 2004
Attorney Docket No. 04015
For: COMPOSITE HINGED DOOR AND INSERT THEREFOR

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.137(b) to revive the above-identified application and the petition under 37 CFR 1.47(a). Both petitions were filed August 14, 2006.

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

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

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a reply to the August 10, 2004 Notice to File Missing Parts of Nonprovisional Application, which set an extendable two month period for reply to submit an executed declaration and a surcharge. No reply being received, the Office considered this application abandoned on October 11, 2004. A Notice of Abandonment was mailed on May 13, 2005.

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

(1) the required reply, unless previously filed.;

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

(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.

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

This petition does not meet requirement (1) set forth above.

While petitioner has filed a grantable petition under 37 CFR 1.47(a), it appears that petitioner has not submitted the $65.00 surcharge required by the August 10, 2004 Notice to File Missing Parts of Nonprovisional Application. An acceptable declaration was not filed when the present application was filed. Therefore, the late declaration surcharge was and still is required. A review of the application file reveals that petitioner has not provided a deposit account general authorization. Therefore, the petition under 37 CFR 1.137(b) is dismissed. Once petitioner submits the $65.00 surcharge, the Rule 47(a) petition will be granted.

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

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

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

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

Telephone inquiries 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

GALLAGHER & DAWSEY CO., L.P.A.
P.O. BOX 785
COLUMBUS OH 43216

COPY MAILED
DEC 0 7 2006
OFFICE OF PETITIONS

In re Application of :
Lohr, et al :
Application No. 10/782,516 :
Filed: February 18, 2004 : ON PETITION
Attorney Docket No. 04015 :
For: COMPOSITE HINGED DOOR AND :
INSERT THEREFOR :

This is a decision on the reconsideration petition under 37 CFR 1.47(a) and the reconsideration petition under 37 CFR 1.137(b) to revive the above-identified application. Both petitions were filed on September 5, 2006.

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

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

The above-identified application became abandoned for failure to submit a reply to the August 10, 2004 Notice to File Missing Parts of Nonprovisional Application, which set an extendable two month period for reply to submit an executed declaration and a surcharge. No reply being received, the Office considered this application abandoned on October 11, 2004. A Notice of Abandonment was mailed on May 13, 2005.

Petitioner has shown that the non-signing inventor, Dwight D. Lohr, has expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration by Nicholas Baxter, CEO of European and U.S. Operation of Austral Monsoon Industries Pty. Ltd, parent company to Diamond Roll-Up Door, Inc., Mr. Lohr's former employer, explains that Mr. Lohr received and reviewed a copy of the application and declaration before the application was filed. On August 15, 2004, Mr. Lohr refused to sign the declaration during a meeting with Mr. Baxter. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

Applicant has submitted (1) a proper reply to the August 10, 2004 Notice to File Missing Parts of Nonprovisional Application in the form of an acceptable declaration and a late declaration surcharge, (2) an acceptable statement of the unintentional nature of the delay in responding to the August 10, 2004 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the application file will be returned to the Office of Initial Patent Examination for further processing. Thereafter the application will be forwarded to Technology Center A.U. 3635 for examination in due course.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DWIGHT D. LOHR
542 NORTH 8TH STREET
SUPPERSANDUSKY, OH 43351

COPY MAILED
DEC 0 7 2006
OFFICE OF PETITIONS

In re Application of Lohr, et al Application No. 10/782,516 Filed: February 18, 2004 Attorney Docket No. 04015 For: COMPOSITE HINGED DOOR AND INSERT THEREFOR	:	ON PETITION

Dear Mr. Lohr:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: GALLAGHER & DAWSEY CO., L.P.A.
P.O. BOX 785
COLUMBUS OH 43216

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE :12/13/05

TO SPE OF : ART UNIT **3714**

SUBJECT : Request for Certificate of Correction on Patent No.: 10/782517 6945873

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

A. Green

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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

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

Comments:

_____

_____

_____

_____

_____

SPE _____ **Art Unit** 3711

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 6,945,873 B2
DATED : September 20, 2005
INVENTOR(S) : M. Hlynka

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

COLUMN	LINE	ERROR
(*) Pg. 1, col. 1	Notice	insert in appropriate order --This patent is subject to a terminal disclaimer.--
1	7	"2002 now" should read --2002, now--
1	54	"relationship, and" should read --relationship;--
2	41	"sufface" should read --surface--
5 (Claim 14,	14 line 5)	"hind" should read --and--
6 (Claim 23,	46 line 25)	"bill" should read --hill--
6 (Claim 23,	47 line 26)	"bill" should read --hill--

MAILING ADDRESS OF SENDER:
Christensen O'Connor Johnson Kindness PLLC
1420 Fifth Avenue, Suite 2800
Seattle, WA 98101

PATENT NO. US 6,945,873 B2

No. of add'l copies @ 50¢ per page

WWW1\22413173A.DOC

Form PTO 1050 (Rev. 2-93)

DEC 5 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rimma Budnitskaya
Fenwick & West LLP
Silicon Valley Center
801 California Street

COPY MAILED

SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Abhishek Chauhan et al.	:	
Application No. 10/782,529	:	DECISION ON PETITION
Filed: February 18, 2004	:	TO WITHDRAW
Attorney Docket No. 22271-01000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R.§ 1.36(b), filed December 19, 2005.

The request is **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).

Rimma Budnitskaya signed the request on behalf of all attorneys of record.

Rimma Budnitskaya and all attorneys/agents associated with application have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant. The Revocation and Power of Attorney filed on August 23, 2006 is not accepted as no proper 37 CFR 3.73 (b) Statement was filed.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Abhishek Chauhan
107 Rio Vis
Los Gatos, CA 95032

Cc: CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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
10/782,529	02/18/2004	Abhishek Chauhan	

CONFIRMATION NO. 3237

OC000000020530819

Abhishek Chauhan
107 Rio Vis
Los Gatos, CA 95032

Date Mailed: 09/21/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/19/2005.

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.

CHARLES SMOOT
OP (571) 272-3299

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 04/29/2010

Applicant	: Abhishek Chauhan	: DECISION ON REQUEST FOR
Patent Number	: 7617531	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/782,529	: 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 **1324** 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
www.uspto.gov

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

Mail Date: 04/21/2010

Applicant	: Loren D. Vredevoogd	: DECISION ON REQUEST FOR
Patent Number	: 7574293	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/782,539	: 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 **1421** 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 : 06/09/10

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10782547 Patent No.: 7674847

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

Q Wu — SPE
1796 — AU

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 18, 2006

TO SPE OF : ART UNIT 3736 Charles Marmour

SUBJECT : Request for Certificate of Correction on Patent No.: 6949074 B2

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

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Antonio Johnson
Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 112

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

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

Comments:

The requested changes to Column 1, lines 54-55, 60-61, and 61, do not apply because the text in the patent is consistent with changes made by Applicant in the Amendment dated 3/29/05. The requested change to Claim 5 does not apply because claim 6 of the patent is the claim that was amended by Examiner's Amendment - not claim 5.

[signature] **SPE** — 3736 **Art Unit**

(PTO/SB/44 (08-00)
Approved for use through 09/30/2000. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number
Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,949,074
DATED : SEPTEMBER 27, 2005
INVENTOR(S) : Mostafa Fatemi

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

Column 1, line 54, "simulator" should be --stimulator--. OK

Column 1, lines 54-55, "can be" should be --can produce, and can be--. No

Column 1, lines 60-61, "an audio" should be --a modulation--. No

Column 1, line 61, "modules" should be --modulates--. No

Column 4, line 48, "the be of" should be --the beam of--. OK

Column 5, line 15, "modulate" should be --modulated--. OK

Column 5, line 66, "(11)" should be -(1_1)---. OK

Column 5, line 67, "(d1)" should be -(d_1)---. OK

Column 6, line 1, "(d2)" should be --(d_2)--. OK

Column 6, line 1, "(12)" should be --(1_2)--. OK

Claim 1, Column 7, line 38, "material" should be --maternal--. OK

Claim 5, Column 8, lines 24-29, were deleted via Examiner's Amendment No
dated April 28, 2005.

MAILING ADDRESS OF SENDER:

Barry E. Sammons
Quarles & Brady, LLP
411 East Wisconsin Avenue
Milwaukee WI 53202

PATENT No. 6,949,074

No. of additional copies

2006

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and trademark Office, Washington DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington DC 20231.

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.
10/782,570	02/19/2004	Nadine Carozzi	.045600/274144	5780

826 7590 03/20/2009
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER
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.

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 2 0 2009

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.: 10/782,570	: PETITION DECISION
Filed: February 19, 2004	:
Attorney Docket No.: **045600/274144**	

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

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

FORD GLOBAL TECHNOLOGIES, LLC.
SUITE 600 – PARKLANE TOWERS EAST
ONE PARKLANE BLVD.
DEARBORN, MI 48126

COPY MAILED

SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Peter Steele Horsford, et al.	:	
Application No. 10/782,599	:	ON PETITION
Filed: February 19, 2004	:	
Attorney Docket No. 81083251	:	

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed July 12, 2004, 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 August 13, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $1020 extension of time submitted on June 20, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 (Restriction Requirement); (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the petition filed June 20, 2005 is accepted as having been unintentionally delayed.

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

The application matter is being referred to Technology Center 3600, Art Unit 3612 for further processing.

Retta Williams

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONATHAN P. OSHA
ROSENTHAL & OSHA L.L.P.
SUITE 2800
1221 MCKINNEY ST.
HOUSTON, TX 77010

COPY MAILED

MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Noriyuki Sudou	:	
Application No. 10/782,618	:	ON PETITION
Filed: February 19, 2004	:	
Attorney Docket No. 04995/136001		

This is a decision on the petition filed, March 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 December 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Apr-07

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

COPY MAILED

APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Hutnik et al.	:	
Application No. 10/782,619	:	DECISION ON PETITION
Filed: 18 February, 2004	:	
Atty Docket No. 2003-0104	:	

This is a decision on the petition filed on 26 January, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 August, 2006, for failure to timely file a response to the non-final Office action mailed on 5 May, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 28 November, 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)).

The present petition is accompanied by an amendment.

The revocation and power of attorney filed on 26 January, 2007, cannot be accepted because it was not signed by the inventors or on behalf of the assignee. Petitioner should use the enclosed form to file a proper revocation and power of attorney.

This application is being referred to Technology Center Art Unit 2617 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/82
PTO/SB/96

PTO/SB/82 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint the practitioners associated with the Customer Number: ☐

☐ Please change the correspondence address for the above-identified application to:

☐ The address associated with Customer Number: ☐

OR

☐ Firm *or* Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

I am the:

☐ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature			
Name			
Date		Telephone	

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

PTO/SB/96 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

COPY MAILED

APR 2 0 2006

OFFICE OF PETITIONS

In re Application of
Thomas L. Fevig, et al.
Application No. 10/782,625
Filed: February 19, 2004
Attorney Docket No. PC27477A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed by August 4, 2005, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed May 14, 2004. The notice required an oath or declaration under 37 CFR 1.63 and the surcharge as set forth in 37 CFR 1.16(e). A Notice of Abandonment was mailed on February 9, 2005. In response, on August 4, 2005, the present petition was filed, as well as an executed Declaration using an Application Data Sheet (ADS) and the requisite surcharge.

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

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed August 4, 2005.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Cathryn Campbell
McDERMOTT, WILL & EMERY
4370 La Jolla Village Drive, Suite 700
San Diego, CA 92122

Mail Date: 04/21/2010

Applicant	: John C. Reed	: DECISION ON REQUEST FOR
Patent Number	: 7615623	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/782,627	: 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 **569** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON, VA 20191

COPY MAILED

JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
John Cockerham	:	
Application No. 10/782,630	:	DECISION ON PETITION
Filed: February 19, 2004	:	TO WITHDRAW
Attorney Docket No. 2647-001CIP3	:	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 16, 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 Jon L. Roberts 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: JOHN COCKERHAM
3165 N 36TH AVENUE
HOLLYWOOD, FL 33021

cc: TOUCHSAFE INTERNATIONAL, INC.
C/O PATRICA HICKEY
5638 EAST VIA BUENA VISTA
PARADISE VALLEY, AZ 86253-8129

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
10/782,630	02/19/2004	John Cockerham	2647-001CIP3

CONFIRMATION NO. 5107

POWER OF ATTORNEY NOTICE

22208
ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON, VA 20191

OC000000030344277

Date Mailed: 06/06/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2007.

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

/amwise/

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

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

KILYK & BOWERSOX, P.L.L.C.
400 HOLIDAY COURT
SUITE 102
WARRENTON VA 20186

In re Application of	:	
Roy E. Guess	:	
Serial No.: 10/782,631	:	DECISION ON PETITION
Filed: February 19, 2004	:	
For: Carpet Using Unused Yarn	:	

This is in response to the petition applicant filed on February 13, 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

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
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/782,634	02/18/2004	2121	770	T-6264	11	10	2

CONFIRMATION NO. 5168

CORRECTED FILING RECEIPT

OC000000012734604

34014
CHEVRON TEXACO CORPORATION
P.O. BOX 6006
SAN RAMON, CA 94583-0806

Date Mailed: 05/20/2004

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

Applicant(s)

Christopher J. Freitas, San Antonio, TX;
Mary Ann Clarke, San Antonio, TX;

Assignment For Published Patent Application

Chevron U.S.A. Inc.;

Domestic Priority data as claimed by applicant

Foreign Applications

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

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

Non-Publication Request: No

Early Publication Request: No

Title

N-phase interface tracking method utilizing unique enumeration of microgrid cells

Preliminary Class

706

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

Gazdzinski & Associates
Suite 375
11440 West Bernardo Court
San Diego CA 92127

COPY MAILED

JUL 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Ladd et al.	:	DECISION ON PETITION
Application No. 10/782,680	:	
Filed: February 18, 2004	:	
Attorney Docket No. TWAR.005A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 2005, 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 17, 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 October 20, 2005, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2153.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARBARA B. COURTNEY
COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

COPY MAILED

MAY 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Yue Jun Jiang	:	DECISION ON PETITION
Application No. 10/782,681	:	TO WITHDRAW
Filed: February 18, 2004	:	FROM RECORD
Attorney Docket No. 028327-00068	:	

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** because it is moot.

A review of the file record indicates that on June 30, 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: Arent Fox LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington DC 20036

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

TUROCY & WATSON, LLP
127 PUBLIC SQUARE
57TH FLOOR, KEY TOWER
CLEVELAND OH 44114

MAILED

MAY 07 2009

OFFICE OF PETITIONS

In re Application of
Kamal Jain et al
Application No. 10/782,687
Filed: February 19, 2004
Attorney Docket No.
MS306434.1MSFTP526US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed July 14, 2008, is accepted as having been unintentionally delayed.

As to the Request For Waiver Of Fee Under 37 C.F.R. §1.17(m):

The request for waiver of the petition fee is dismissed because the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or §1.957(b) or limitation of further prosecution under § 1.957(c). See 37 CFR 1.116(c).

Further, MPEP 711.03 (c) states that:

[T]he petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether

the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

As the petition fee was not charged by credit card, the fee of $1,620.00 is being charged to deposit account no. 50-1063 as authorized.

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

This application is being referred to Technology Center AU 3628 for appropriate action by the Examiner in the normal course of business on the reply received February 4, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
802 WEST BANNOCK STREET, SUITE 405
BOISE ID 83701

COPY MAILED

SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:
Cook	: DECISION REFUSING
Application No. 10/782,712	: STATUS UNDER
Filed: February 18, 2004	: 37 CFR 1.47(b)
Attorney Docket No. LOWM110	:
For: ERGONOMIC DUTY BELT	:

This is in response to the petition under 37 CFR 1.47(b), filed July 19, 2004 (certificate of mailing date July 14, 2004).

The petition under 37 CFR 1.47(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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)." Failure to respond will result in abandonment of the application.

The above-identified application was filed on February 18, 2004 without an executed oath or declaration. Accordingly, on May 14, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration, a surcharge for its late filing, and replacement drawings.

In response, on July 19, 2004 (certificate of mailing date July 14, 2004), a copy of an assignment signed by Inventor Clifton Cook, giving rights in the invention to Tactical Design Labs, Inc., the surcharge, replacement drawings, the petition fee, and the instant petition were filed. A declaration of facts by Attorney Robert L. Shaver accompanies the petition.

Attorney Shaver states that the complete application was sent to Inventor Cook and that Inventor Cook's attorney informed Attorney Shaver that Inventor Cook would not execute the declaration for patent application.

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

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;
(2) an acceptable oath or declaration;
(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest; and
(6) proof of irreparable damage.

Applicant lacks items (2) and (4) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. **No** oath/declaration for patent application has been presented. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47(b) applicant on behalf of Inventor Cook is REQUIRED. See MPEP 409.03(b).

The individual signing the declaration should include information pertaining to him/her. The Office requires a new declaration with the signer's name, title, the address where he/she normally receives mail, his/her residence, and his/her citizenship listed thereon *in addition* to the information pertaining to the inventor. As stated in the MPEP 409.03(b), where an oath is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation.

As to item (4), a statement of the non-signing inventor's last known address is missing and is required.

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

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Inquiries may be directed to the undersigned at (703)308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE ID 83701-0877

COPY MAILED

FEB 0 1 2007

OFFICE OF PETITIONS

In re Application of	:
Cook	: DECISION ACCORDING
Application No. 10/782,712	: STATUS UNDER
Filed: February 18, 2004	: 37 CFR 1.47(b)
Attorney Docket No. LOWM110	:
For: ERGONOMIC DUTY BELT	:

This is in response to the reconsideration petition under 37 CFR 1.47(b), filed October 18, 2004 (certificate of mailing date October 12, 2004). The petition was only recently forwarded to the Office of Petitions.

The petition under 37 CFR 1.47(b) is granted.

Petitioner has shown that the non-signing inventor, Clifton Cook, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Attorney Robert L. Shaver establishes that the complete application was sent to Inventor Cook and that Inventor Cook's attorney informed Attorney Shaver that Inventor Cook would not execute the declaration for patent application.
In addition, petitioner has shown that Tactical Design Labs, Inc.,. has a proprietary interest in the above-identified application with the assignment signed by Inventor Clifton Cook that gives his rights in the invention to Tactical Design Labs, Inc. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center A.U. 3782 for examination in due course.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CLIFTON COOK
4789 RIVERINE PLACE
BOISE, ID 83714

COPY MAILED
FEB 01 2007
OFFICE OF PETITIONS

In re Application of	:	
Cook	:	
Application No. 10/782,712	:	Letter
Filed: February 18, 2004	:	
Attorney Docket No. LOWM110	:	
For: ERGONOMIC DUTY BELT	:	

Dear Mr. Cook:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
BOISE ID 83701-0877

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Sven Lindfors	: DECISION ON REQUEST FOR
Patent Number	: 7601223	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/782,727	: 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 **123** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of
Peter C. Brooks et al.
Application No. 10/782,728
Filed: February 18, 2004
Attorney Docket No. 31747-705.201

LETTER REGARDING
PATENT TERM ADJUSTMENT

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed May 29, 2009. Pursuant to their duty of good faith and candor to the Office, applicants note that the patent term adjustment pursuant to 35 U.S.C. 154(b) of 456 days indicated on the Determination of Patent Term Adjustment, may potentially be 407 days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED.** The PTA at the time of the mailing of the notice of allowance is 407 days.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred seven **(407)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On March 23, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 407 days. Applicants do not state a basis for their disclosure that the Patent Term Adjustment on the Notice of Allowance disagrees with their calculation.

Nonetheless, a review of the record reveals that the initial determination of patent term adjustment of 456 days is incorrect. Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 49 days should have been entered.

37 CFR 1.704(c)(8) provides that:

> the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set

> forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, the filing of the Supplemental Information Disclosure Statement on April 14, 2008 is considered a failure to engage under 1.704(c)(8). The IDS was not expressly requested by the examiner. The IDS did not include a 1.704(d) statement

A period of 49 additional days should have been deducted for a total of 141 days for Applicant Delay.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is FOUR HUNDRED SEVEN (407)days (548 days of Office delay reduced by 141 (92 + 49) days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management 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 decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Enclosure: Copy of Revised PALM Screen

Day : Friday
Date: 8/28/2009

PALM INTRANET

Time: 17:39:37

PTA Calculations for Application: 10/782728			
Application Filing Date:	02/18/2004	PTO Delay (PTO):	548
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	407
PTO Delay Adjustment:	-49		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		49	
67	03/23/2009	MAIL NOTICE OF ALLOWANCE	113		54
63	08/21/2008	ISSUE REVISION COMPLETED			
62	08/21/2008	DOCUMENT VERIFICATION			
61	08/18/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	08/18/2008	EXAMINER'S AMENDMENT COMMUNICATION			
58	08/18/2008	NOTICE OF ALLOWABILITY			
57	08/07/2008	DATE FORWARDED TO EXAMINER			
56	07/30/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
55	08/07/2008	DATE FORWARDED TO EXAMINER			
54	07/30/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
53	08/07/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
52	07/28/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
51	07/31/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
50	06/09/2008	MAIL FINAL REJECTION (PTOL - 326)			
49	06/06/2008	FINAL REJECTION			
48	04/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
46	04/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	03/27/2008	DATE FORWARDED TO EXAMINER			
44	02/25/2008	RESPONSE AFTER NON-FINAL ACTION		31	42
		REQUEST FOR EXTENSION OF TIME - GRANTED			

43	02/25/2008				
42	10/25/2007	MAIL NON-FINAL REJECTION			
41	10/23/2007	NON-FINAL REJECTION			
40	08/02/2007	DATE FORWARDED TO EXAMINER			
39	07/27/2007	RESPONSE AFTER NON-FINAL ACTION		61	37
38	07/27/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	02/27/2007	MAIL NON-FINAL REJECTION			
36	02/20/2007	NON-FINAL REJECTION			
35	01/06/2007	DATE FORWARDED TO EXAMINER			
34	12/28/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
33	11/28/2006	MAIL RESTRICTION REQUIREMENT			
32	11/27/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
31	07/08/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	03/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	03/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	09/12/2006	DATE FORWARDED TO EXAMINER			
27	08/28/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
26	08/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	06/27/2006	MAIL RESTRICTION REQUIREMENT	435		-1
24	06/23/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
23.7	03/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	03/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	02/01/2006	CORRESPONDENCE ADDRESS CHANGE			
21	02/01/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
20.7	03/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	12/02/2004	CORRESPONDENCE ADDRESS CHANGE			
18	09/17/2004	CASE DOCKETED TO EXAMINER IN GAU			
17	09/17/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

16	07/08/2004	REFERENCE CAPTURE ON IDS			
15.7	07/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	07/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/08/2004	PRELIMINARY AMENDMENT			
13	08/25/2004	APPLICATION RETURN FROM OIPE			
12	08/25/2004	APPLICATION RETURN TO OIPE			
11	08/25/2004	APPLICATION DISPATCHED FROM OIPE			
10	08/25/2004	APPLICATION IS NOW COMPLETE			
9	07/08/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	07/08/2004	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
7	07/08/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	07/22/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
5	05/14/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	03/24/2004	CLEARED BY OIPE CSR			
3	03/24/2004	CASE CLASSIFIED BY OIPE			
2	03/09/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/18/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

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

JUN 2 1 2010

OFFICE OF PETITIONS

WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Patent No. 7,601,694
Issued: October 13, 2009
Application No. 10/782,728
Filed: February 18, 2004
Attorney Docket No. 31747-705.201

: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 Patent Term Adjustment Under 37 C,F.R. § 1.705(d)" filed December 11, 2009, requesting that the patent term adjustment determination for the above-identified patent be revised to 925 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred twenty-four (924) 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 29, 2008, the day before the RCE was filed, the B delay is 527 days, not 528 days See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 924, not 925 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 23-2415.

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.

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred twenty-four (924)** days.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,601,694 B2

DATED : October 13, 2009

INVENTOR(S) : Peter C. Brooks

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 (490) days

Delete the phrase "by 490 days" and insert – by 924 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:
Khouri et al.	:
Application No. 10/782,737	: DECISION ON PETITIONS
Filed: February 18, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 854163.410	: AND UNDER 37 CFR 1.55(C)

This is a decision on the petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed May 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed Nonprovisional Application No. 10/331,185, filed December 27, 2002, and under 35 U.S.C. § 119(a)-(d) for the benefit of prior-filed European Application No. 01830808.0, filed December 27, 2001, as set forth in the concurrently filed Application Data Sheet (ADS).

The petitions are **GRANTED**.

As to the benefit claim 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 instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed applications was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date;
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified (or intermediate) nonprovisional application must be filed within 12 months of the filing date of the foreign application.

Intermediate Nonprovisional Application No. 10/331,185, was filed within 12 months of December 27, 2001, which is the earliest filing date of the foreign application to which benefit is claimed. The ADS filed on May 24, 2005, also identifies the foreign application for which priority is claimed.

The $1370.00 surcharge was submitted with the instant petition and petitioner has provided an adequate statement of unintentional delay.

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 119(a)-(d) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

This matter is being referred to Technology Center Art Unit 2824 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed nonprovisional application and for consideration of the claim for priority under 35 U.S.C. § 119 for the benefit of the foreign application.

Liana Chase

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 033005

SWIDLER BERLIN LLP
3000 K STREET, NW
BOX IP
WASHINGTON, DC 20007

APR 5 2005

In re Application of:	:	
ISADORE COOPERMAN	:	
Serial No.: 10/782,801	:	DECISION ON REQUEST TO WITHDRAW
Filed: February 23, 2004	:	FROM RECORD
Attorney Docket No.: **19699.0004**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed March 9, 2005.

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

The request meets all the above stated requirements. The request was signed by Sean P. O'Hanlon, on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys of record at this time.

All future communications from the Office will be directed to the inventor, Isadore Cooperman, at the below address, until otherwise notified by applicant.

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

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

cc: ISADORE COOPERMAN
62 IVY ROAD
FREEHOLD, NJ 07728-3033

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

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

COPY MAILED
JUN 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Jan Roelof Van Der Meulen	:	
Application No. 10/782,806	:	DECISION ON PETITION
Filed: February 23, 2004	:	TO WITHDRAW
Attorney Docket No. 1203.080	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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

COPY MAILED

JUN 2 4 2005

OFFICE OF PETITIONS

Applicant: Hajaligol et al.
Appl. No.: 10/782,812
Filing Date: February 23, 2004
Title: USE OF OXYHYDROXIDE COMPOUNDS FOR REDUCING CARBON MONOXIDE IN THE MAINSTREAM SMOKE OF A CIGARETTE
Attorney Docket No.: 021238-644
Pub. No.: US 2004/0159328 A1
Pub. Date: August 19, 2004

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on September 1, 2004 for the above-identified application

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, as dependent claim 29 is misprinted as "about 5 mg to" is misprinted as "about mg to."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The error is not a material mistake because the application is a Divisional of U.S. Application 10/117,220 filed April 8, 2002, now U.S. Patent Application Publication 2003/0188758 and U.S. Patent No. 6,769,437. Since, the parent application is both published and patented and the patent contains the method claims including claim 29 and that the method claims including claim 29 have been canceled in this divisional application, the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the earlier publication has the best date as a reference. Furthermore, this is not a

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

material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice)

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

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

COPY MAILED

JAN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Takahashi et al.	:	
Application No. 10/782,813	:	LETTER REGARDING
Filed: February 23, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 023971-0370	:	

This letter is in response to the "LETTER (UNDER GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)" filed November 6, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment mailed with the Notice of Allowance should be two hundred sixty-six (266) days not two hundred eighty-seven (287) days.

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

On October 3, 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 287 days. Applicants disclose that the Office erroneously charged themselves 21 additional days of delay.

The application history has been reviewed and it has been decided that the determination of patent term adjustment is correct. Under the circumstances of this application, the period of adjustment of 21 days for Office delay in taking more than four months to mail a Notice of Allowance in response to the Notice of Appeal is correct.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance of two hundred eighty-seven (287) days is correct.

As this letter was submitted as an attempt to advise the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the 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 decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 10 2009

OFFICE OF PETITIONS

HARNESS DICKEY & PIERCE PLC
PO BOX 8910
RESTON VA 20195

In re Application of	:	
Sandstrom, et al.	:	
Application No. 10/782,863	:	DECISION ON
Filed: February 23, 2004	:	PETITION
Attorney Docket No. 2674-000022/US/COA	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed June 30, 2009.

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

The above application became abandoned for failure to timely file corrected drawings in response to the Notice of Allowability, mailed February 26, 2009. This Notice set a statutory period for reply of three months. No reply having been received, the application became abandoned on May 27, 2009. The Office mailed a Notice of Abandonment on June 26, 2009.

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

The matter is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON P.C.
SMITH & NEPHEW, INC.
150 Minuteman Road
Andover, MA 01810

Mail Date: 04/21/2010

Applicant	: Nelson Scarborough	: DECISION ON REQUEST FOR
Patent Number	: 7662133	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/782,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **325** 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
www.uspto.gov

FISH & RICHARDSON P.C.
SMITH & NEPHEW, INC.
150 Minuteman Road
Andover, MA 01810

Mail Date: 05/18/2010

Applicant : Nelson Scarborough
Patent Number : 7662133
Issue Date : 02/16/2010
Application No : 10/782,900
Filed : 02/23/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **424** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

MAY 19 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

REED SMITH LLP
Suite 1400
3110 Fairview Park Drive
Falls Church VA 22042

In re Application of :
Masaki Aizawa, et al. :
Application No. 10/782,925 :
Filed: February 23, 2004 :
For: **DISK ARRAY SYSTEM AND A METHOD OF AVOIDING FAILURE OF THE DISK ARRAY SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed April 18, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P O BOX 19928
ALEXANDRIA, VA 22320

COPY MAILED
MAY 0 4 2006
OFFICE OF PETITIONS

In re Application of	:
Shougo Sato et al	:
Application No. 10/782,973	: DECISION GRANTING PETITION
Filed: February 23, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 118785	:

This is a decision on the petition, filed May 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2852 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\may9\782973.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).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P O BOX 19928
ALEXANDRIA, VA 22320

COPY MAILED
NOV 0 8 2006
OFFICE OF PETITIONS

In re Application of	:
Shougo Sato et al	:
Application No. 10/782,973	: DECISION GRANTING PETITION
Filed: February 23, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 118785	:

This is a decision on the petition, filed November 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 September 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2852 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\NOV10\782973.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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

COPY MAILED

DEC 2 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Shougo Sato et al	:	
Application No. 10/782,973	:	DECISION GRANTING PETITION
Filed: February 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 118785	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 20, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOVEY WILLIAMS LLP
10801 Mastin Blvd., Suite 1000
Overland Park, KS 66210

Mail Date: 04/21/2010

Applicant	: David S. Miller	: DECISION ON REQUEST FOR
Patent Number	: 7610226	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/782,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **676** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAR 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

BAKER & McKENZIE
805 Third Avenue
29th Floor
New York, NY 10022

In re Application of:
Gerald L. BOYD, et al.
Application No.: 10/782,980
Filed: February 20, 2004
For: SYSTEM AND METHOD FOR CLUSTER DEPLOYMENT

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 23, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Richard F. Jaworski, Esq.
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

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

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

Mail Date: 04/21/2010

Applicant	: Rafail Zubok	: DECISION ON REQUEST FOR
Patent Number	: 7575576	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/782,981	: OF WYETH
Filed	: 02/20/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CHAO-NAN CHANG
P.O. BOX 697
FENG-YUAN CITY 420
TAICHUNG HSIEN
TAIWAN, R.O.C

COPY MAILED

MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Chang, Chao-Nan	:	
Application No. 10/782,993	:	ON PETITION
Filed: February 23, 2004	:	
Title: Structure Of A Buckle To Fasten Shoelaces	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 3, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed June 22, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 23, 2004. A Notice of Abandonment was mailed January 19, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

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

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). Applicant has failed to provide a proper response to the Office action mailed on June 22, 2004. As stated in 37 CFR 1.111(b),

> In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Before the above-identified application can be revived, a proper response complying with the above must be submitted. A copy of the Office action mailed on June 22, 2004, is enclosed for applicant's convenience.

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

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any specific questions relating to the Office action may be directed to the examiner of record, Examiner Lavinder, at (571) 272-7119.

Liana Chase

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

Enclosure: Office action previously mailed on June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMAN WARNICK & DALESSANDRO LLC
75 STATE ST
14TH FLOOR
ALBANY NY 12207

COPY MAILED

MAR 26 2008

In re Application of :
Fuhwei Lwo :
Application No. 10/783,002 : ON PETITION
Filed: February 20, 2004 :
Attorney Docket No. **RSW920030291US1** :

This is a decision on the petition filed March 6, 2008, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned July 18, 2007 for failure to timely reply to the non-Final Office Action mailed April 17, 2007 and which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed February 6, 2008.

The file record discloses that the Notice was mailed to what was believed to be the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that it was not received.

Unfortunately, the requirement under 37 CFR 1.181, is that petitioner review the docket records and submit copies of the actual docket records or file jacket to show non-receipt. That requirement has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

---

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

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

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

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

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

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

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

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

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOFFMAN WARNICK & DALESSANDRO LLC
75 STATE ST
14TH FLOOR
ALBANY NY 12207

COPY MAILED

APR 23 2008

In re Application of :
Fuhwei Lwo :
Application No. 10/783,002 : ON PETITION
Filed: February 20, 2004
Attorney Docket No. **RSW920030291US1**

This is a decision on the petition filed April 9, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 18, 2007 for failure to timely reply to the non-Final Office Action mailed April 17, 2007 and which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed February 6, 2008. A petition filed March 26, 2008 under 37 CFR 1.181 was dismissed in a decision mailed March 26, 2008 because while petitioner argued non-receipt of the office action, petitioner had not proven non-receipt.

Comes now petitioner with the instant petition to revive using the response to the non-Final Office Action filed March 6, 2008.

This matter is being referred to Technology Center 2191 for appropriate treatment on the amendment filed March 6, 2008.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

PILATUS U.S.A. LTD
APPLIED PHYSICAL SCIENCES/R&D
148 EAST DIVISION
FAIRFIELD, MT 59436
PHONE: (406) 467-3880
pilatustek@yahoo.com
www.3rivers.net/~pilatustek

SOILS, ORES, TAILINGS PROCESSORS & DECONTAMINATORS
INDUSTRIAL FLUIDS PROCESSORS
DRILLING FLUIDS BLENDERS
DEAGLOMERATORS
HOMOGENIZERS
EMULSIFIERS

OIPE
NOV 10 2005
PATENT & TRADEMARK OFFICE

DATE: 11/8/2005

1746
Chaudhry, S

United States Patent and Trademark Office
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Application Number: 10/783,009
File Date: 2/23/2004
Applicant: Kenneth Gaylord Parrent

RE: Petition to Make Special Advancement of Examination

708.02 PETITION TO MAKE SPECIAL (R03) – 700 Examination of Applications

IV. APPLICANT'S AGE

Please see attached copy of Birth Certificate.

Your attention is appreciated.

Ken Parrent
Kenneth Parrent

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700
DEC 7 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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

MAIL

MAY 1 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Morishita, et al.
Application No. 10/783,018
Filed: February 23, 2004
For: REMOTE COPY SYSTEM

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

This is a response to the petition filed 28 January 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated.** The application will remain in the status of a new

application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 28 January 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to discuss each of the references; only three of the fourteen references deemed "most closely related" are discussed in any detail. Additionally, the discussion fails to point out how each reference defines over each independent claim. Some of the limitations purported to distinguish independent claims 8, 9, and 10 from the references (set forth on page 6 of the petition) are not in these claims. Some examples are set forth below.

-Claim 8 fails to specify that "*the network apparatus transfers* an *access* request issued from the host computer and destined to *the first* primary volume, to the second primary volume" (emphasis added).

-Claim 9 fails to specify that "the *network* apparatus *transfers* an access request *issued* from the host computer and destined to *the first* primary volume, to the second *primary volume*" (emphasis added). Also in claim 9: lines 21 and 22, the word "subsystem" is used rather than "system"; and in lines 23 and 29, the "second storage system" is recited rather than the "*third* storage system".

-Claim 10 fails to specify that "*the network apparatus* transfers an *access* request issued from the host computer and destined to *the first* primary volume, to the second *primary volume*" (emphasis added). Claim 10 also fails to specify that "data stored in the first primary volume is migrated to the second *primary* volume" (emphasis added) and that the "second storage system stores write data received from the host computer and the data received from the first storage system *and stored in the first primary volume*, into the second primary volume" (emphasis added).

Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is **specifically** distinguishable and patentable from **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer

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

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILING

JUL 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: Morishita, et al.
Application No. 10/783,018
Filed: February 23, 2004
For: REMOTE COPY SYSTEM

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

This is a response to the renewed petition filed 17 June 2005 and to the supplemental petition filed 16 May 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

On 16 May 2005, a decision was mailed dismissing applicants' petition filed 28 January 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special. The petition was dismissed for failing to meet requirement (e).

On 16 May 2005, applicants filed a supplemental petition to the petition filed 28 January 2005.

On 17 June 2005, applicants filed a renewed petition in response to the dismissal of the original petition filed 28 January 2005.

The renewed petition filed 17 June 2005 identifies a feature of each independent claim (i.e., a first feature of independent claim 1, . . ., a fourth feature of independent claim 10). Although, in identifying this feature, the discussion states that the references "fail to disclose or suggest [the identified feature] *in combination* with the other limitations recited in the claims" (emphasis added) and although it is also stated in the discussion of each reference that the reference "does not disclose or suggest" the identified feature for each independent claim "*in combination* with the other limitations recited in each of the independent claims" (emphasis added), the supplemental petition filed 16 May 2005 (pages 4-6) states that that the references fail to teach or suggest these features (The features are not identified as first, second, third, and fourth in the supplemental petition. However, the distinguishing features set forth in the supplemental petition are identical to those identified as first, second, third, and fourth in the renewed petition.) without reference to the combination of limitations in the claims. This statement in the supplemental petition on pages 4-6 is sufficient. Accordingly, the petition is **GRANTED**.

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

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

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON DC 20036-3307

COPY MAILED
NOV 12 2008

In re Patent No. 7398599	:	
Issue Date: 07/15/2008	:	
Application No. 10/783022	:	ON PETITION
Filed: 02/23/2004	:	
Attorney Docket No. 95705	:	

This is a decision on the petition filed October 1, 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) 272-3231. 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.

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

Patent No. : 7,353,756 B2
Serial No. : 10/783,066
Inventor(s) : LeaSure
Issued : April 8, 2008
Title : **LEAD FREE REDUCED RICOCHET LIMITED PENETRATION PROJECTILE**
Docket No. : **30644-XX**
Re: Request for Reconsideration

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

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

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

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

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

Joseph T. Guy, Ph.D.
Nexsen Pruet Adams Kleemeier, LLC
PO Drawer 10648
Greenville SC 29603-0648

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph T. Guy, Ph.D.
Nexsen Pruet Adams Kleemeier, LLC
PO Drawer 10648
Greenville SC 29603-0648

MAILED

MAR 23 2010

OFFICE OF PETITIONS

In re Patent No. 7,353,756
Issue Date: April 8, 2008
Application No. 10/783,066
Filed: February 20, 2004
Attorney Docket No. 30644-XX

DECISION ON PETITION

This is a decision on the Petition For Certificate Of Correction To Correct Assignee, filed July 14, 2009, to correct assignee's name on the PTOL-85B. A completed Certificate of Correction Form (PTO/SB/44) was previously submitted on July 23, 2008.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee submitted on the supplemental PTOL-85B identified thereon from "AccuTec USA" to:

--John D. LeaSure--

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464) as set forth under 37 CFR 1.17(i) has been charged from deposit account authorization. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office

to issue a Certificate of Correction in accordance with the content of the Form PTO-1055 that was submitted with the petition.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,353,756

Brian W. Brown
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

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

Mail Date: 04/29/2010

Applicant	: Mordecai Dunst	: DECISION ON REQUEST FOR
Patent Number	: 7608040	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/783,093	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **237** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ LEVIN COHN FERRIS
GLOVSKY AND POPEO PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

JUN 02 2005

OFFICE OF PETITIONS

In re Application of
Frank John Marszalkowski Jr.
Application No. 10/783,123
Filed: February 19, 2004
Attorney Docket No. M2010-7129

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

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 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 2854 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHELL OIL COMPANY
PO BOX 2463
HOUSTON TX 77252-2463

COPY MAILED

JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
Domokos, et al	:	
Application No. 10/783,130	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. TS1461 (US)	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(a), filed May 17, 2007.

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

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed September 27, 2006. This Notice set an extendable period for reply of one (1) month. No reply having been received, the application became abandoned on October 28, 2006. A Notice of Abandonment was mailed on April 30, 2007.

A review of the file reveals that the September 27, 2006 Office action, due to an error in the printed address, was returned as undeliverable. Accordingly, it is obvious that the Office action was not received by Applicants.

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

The matter is being forwarded to Group Art Unit 1754 for consideration of the reply filed with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEAM-CYCOLOY
IP LEGAL
ONE PLASTIC AVENUE
PITTSFIELD MA 01201-3697

COPY MAILED

JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:
Robert W. Venderbosch et al	:
Application No. 10/783,140	: DECISION ON PETITION
Filed: February 20, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 133113-2	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 16, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **DISMISSED**.

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

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

The instant pending nonprovisional application was filed on February 20, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/448,815, which was filed on February 21, 2003, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

---

[1] *Note* 37 CFR 1.121

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

By fax: (703) 872-9306
ATTN: Office of Petitions

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

Karen Creasy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GEAM - CYCOLOY
IP LEGAL
ONE PLASTICS AVENUE
PITTSFIELD, MA 01201-3697

COPY MAILED

SEP 07 2005

OFFICE OF PETITIONS

In re Application of	:
Robert W. Venderbosch et al	:
Application No. 10/783,140	: DECISION ON PETITION
Filed: February 20, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 133113-2	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed June 28, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

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

The instant nonprovisional application was pending at the time of filing of the reference to the prior-fiiled provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/448,815, which was filed on February 21, 2003, for which priority is claimed.

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

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

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

Any inquiries concerning this decision may be directed to 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 matter is being referred to Technology Center AU 1711 for appropriate action on the amendment submitted June 28, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/448,815.

Karen Creasy

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

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

COPY MAILED
OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Berman, et al.	:	
Application No. 10/783,156	:	DECISION ON PETITION
Filed: February 20, 2004	:	TO WITHDRAW
Attorney Docket No. 356508.02900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 14, 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 Doyle B. Johnson on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR BERMAN
10440 BUBB ROAD
SUITE B
CUPERTINO, CA 95014

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
10/783,156	02/20/2004	Arthur Berman	356508.02900

CONFIRMATION NO. 1881

OC000000020703942

OC000000020703942

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/04/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/14/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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.

Biotechnology Law Group
c/o Portfolioip
P.O. Box 52050
Minneapolis MN 55402

COPY MAILED

SEP 17 2008

OFFICE OF PETITIONS

In re Application of :
Dev et al. : DECISION ON PETITION
Application No. 10/783,161 :
Filed: February 20, 2004 :
Atty Docket No. GTI-1160-CT5 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a), filed February 27, 2008, in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. 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)," as appropriate. Extensions of time under § 1.136(a) are permitted.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, February 3, 2006, of the Notice of Allowance and Fee(s) Due[1]. This Office action set a three-month nonextendable statutory period for reply. Payment of the Issue Fee and Publication Fee by check was timely received in the Office on May 9, 2006, with a certificate of mailing dated May 2, 2006. However, as acknowledged by applicants, the checks "bounced for non-sufficient funds." No proper payment received within the required period, the above-identified application became abandoned on May 4, 2006. A courtesy Notice of Abandonment was mailed on September 20, 2006.

[1] There was not a separate but concurrent requirement for corrected drawings.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner argues that the Office never notified them of the problem with the check and they were never given an opportunity to pay the outstanding fees.

35 U.S.C. 151 provides that if any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred. A grantable petition to revive an unavoidably abandoned application 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 Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to §1.137(d).

The petition includes both the required reply in the form of payment of the issue fee and publication fee and payment of the petition fee. No terminal disclaimer is required. Requirement (3) above is at issue.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

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

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

Petitioner's argument has been considered but not found persuasive to meet his burden of establishing that the delay was unavoidable. By law, 35 U.S.C. 151, an applicant is required to pay the issue fee within three months of the mailing of the notice of allowance. In this instance, applicants timely submitted a payment, but that payment was not negotiable. As such, applicants did not satisfy 35 U.S.C. 151 and the application was held abandoned. This is not the case that unexpectedly, or through the unforeseen fault or imperfection of reliable agencies and instrumentalities, there occurs a failure. There is no dispute that upon presentation there were insufficient funds in the account. A reasonably prudent person in relation to their most important business would assure that the account from which the issue fee and publication fee were to be drawn had sufficient funds to pay both fees. Further, a reasonably prudent person would not rely on the recipient of the payment to so advise them of the deficiency within the period for payment to avoid negative consequences. A reasonably prudent person would not need an opportunity to cure the fact that the payment presented was not negotiable. The failure of the payment to be negotiable was due to the failure of applicant to exercise the diligence of careful and reasonable men to submit a negotiable payment within 3 months of the mailing of the notice of allowance. The delay in submitting the issue fee and publication fee is not unavoidable within the meaning of 37 CFR 1.137(a).

In view thereof, the petition is dismissed.

Applicant is not precluded from filing a petition to revive based on unintentional delay.

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

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

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

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

Telephone inquiries 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
www.uspto.gov

Paper No.

BioTechnology Law Group
12707 High Bluff Drive
Suite 200
San Diego CA 92130-2037

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Dev et al.	:	DECISION ON PETITION
Application No. 10/783,161	:	
Filed: February 20, 2004	:	
Atty Docket No. GTI-1160-CT5	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 17, 2008, in the above-identified application.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, February 3, 2006, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. Payment of the Issue Fee and Publication Fee by check was timely received in the Office on May 9, 2006, with a certificate of mailing dated May 2, 2006. However, as acknowledged by applicants, the checks "bounced for non-sufficient funds." No proper payment received within the required period, the above-identified application became

abandoned on May 4, 2006. A courtesy Notice of Abandonment was mailed on September 20, 2006.

By decision mailed September 17, 2008, the initial petition filed February 27, 2008 under 37 CFR 1.137(a) was dismissed. Applicants failed to meet their burden of establishing that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable.

In response, applicants filed the instant petition, requesting revival based on the less stringent standard of unintentional delay of 37 CFR 1.137(b). This petition was made timely by an accompanying petition and fee for a one-month extension of time.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A petition filed 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 Director may require additional information where there is a question whether the delay was unintentional; and
>
> (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition includes the petition fee, the required statement of unintentional delay and a proposed reply. No terminal disclaimer is required.

With respect to the required statement of unintentional delay, it is noted that this application has been abandoned for an extended period of time. A petition to revive was first filed

two years after the abandonment of the application. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Required replies in the form of payment of the issue fee and publication fee were previously paid on initial petition under 37 CFR 1.137(a). However, the processing fee pursuant to 1.21(m) for the originally refused payment is also required for revival of this application. With respect to this payment, it is noted that the issue fee was paid again on instant petition. A refund of $670 is being processed to refund the duplicate issue fee payment of $720 less the $50 refused payment processing fee.

The petition must be dismissed because the proposed reply is not sufficient. A careful review of the record reveals that applicants have not filed the proper reply required by the Notice of Allowability. The Notice of Allowability set a concurrent but distinct requirement for submission of a supplemental oath or declaration by inventor Dev with his full name, including family and given name. A declaration by inventor Dev was filed on September 15, 2006. However, this declaration is not acceptable as it includes non-dated and non-initialed changes to inventor Dev's information, including the statutorily required citizenship information. A new supplemental oath or declaration in compliance with $1.63 is required before this application can be revived.

With regard to the duplicate issue fee payment, the Office of Finance has confirmed that the Notice of Fee Due dated December 17, 2008 requiring an additional $35 payment was made of record in error. The Notice failed to recognize that the issue fee payment was being submitted a second time and under the circumstances, constituted an overpayment and not an underpayment.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALDO J. TEST
DORSEY & WHITNEY LLP
4 EMBARCADERO CENTER, SUITE 3400
SAN FRANCISCO, CA 94111

COPY MAILED

OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter C. Salmon	:	
Application No. 10/783,163	:	DECISION GRANTING PETITION
Filed: February 19, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 34075/AJT	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 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 (restriction requirement) mailed April 21, 2005, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 24, 2005 (May 21, 2005, the due date, is a Saturday).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) an election in reply to the restriction requirement of April 21, 2005, (2) the petition fee of $750, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of April 21, 2005 is accepted as having been unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. 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 address of record.

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

This matter is being referred to Technology Center AU 2826 for appropriate action in the normal course of business on the election received December 21, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Dorsey & Whitney LLP
555 California Street
Suite 1000
San Francisco, CA 94104-1513

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

CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

COPY MAILED
MAR 2 0 2006
OFFICE OF PETITIONS

In re Patent No. 6,962,965 :
Issue Date: November 8, 2005 :
Application No. 10/783,212 :
Filed: February 20, 2004 :
Attorney Docket No. GP2-0333/135090 :

ON PETITION

This is a decision on the petition filed February 22, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of Certificate of Correction.

The petition is granted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
APR 23 2008
OFFICE OF PETITIONS

In re Application of	:	
Tim Tuan, et al.	:	
Application No. 10/783,216	:	DECISION GRANTING PETITION
Filed: April 21, 2008	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. X-1462-1P US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 21, 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 March 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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

COPY MAILED

APR 2 2 2005

OFFICE OF PETITIONS

In re Application of
Garrison, et al.
Application No. 10/783,217
Filed: February 20, 2004
Attorney Docket No. 13854.4003
FOR: METHODS AND APPARATUS FOR LOCALIZED AND SEMI-LOCALIZED DRUG DELIVERY

DECISION GRANTING PETITION

This is a decision on the petition entitled, "PETITION FOR REIMBURSEMENT OF ADDITIONAL FEES PAID TO RESPOND TO NOTICE OF INCOMPLETE REPLY," filed December 2, 2004(certificate of mailing date November 30, 2004). The petition will be treated under 37 CFR 1.181.

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

The above-identified application was filed on February 20, 2004. On May 14, 2004, the Office of Initial Patent Examination mailed a Notice requesting, *inter alia*, replacement drawings in compliance with 37 CFR 1.83 and 1.121.

On October 18, 2004 (certificate of mailing date October 14, 2004), petitioners filed, *inter alia*, a three month extension of time and required $490.00 fee and 25 sheets of replacement drawings, as shown by applicants' datestamped itemized postcard receipt. However, only 24 sheets of drawings filed on October 18, 2004 are present in the application file. Page 21/25 is missing. As a result, the Office reiterated its request for replacement drawings of Figures 20A-C, which were the figures depicted on the missing sheet of drawings (p. 21/25), in a Notice of Incomplete Reply (Nonprovisional) dated November 4, 2004.

In response to the November 4, 2004 Notice, petitioners filed a copy of drawing p. 21/25 and the Office charged a $1,040.00 five month extension of time fee to their deposit account.

Petitioners request a refund of only $550.00, which represents the difference in fees paid for the three month extension of time versus the five month extension of time. However, petitioners are entitled to a $1,040.00 five month extension of time refund because they have shown that Figures

20A-C were indeed filed on October 18, 2004 (certificate of mailing date October 14, 2004) and later misplaced in the Office. Thus the October 18, 2004 (certificate of mailing date October 14, 2004) response was complete.

The petition for refund is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

A review of Office financial records for this application reveals that **on April 4, 2005, deposit account no. 15-0665 was refunded $1,040.00.**

After the mailing of this decision, the application will be forwarded to Technology Center 3763 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RONALD F BALINGIT
6320 MEADOW HAVEN DR
AGOURA HILLS CA 91301

COPY MAILED

DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of	:
Ronald F. Balingit	:
Application No. 10/783,224	: DECISION GRANTING
Filed: February 20, 2004	: PETITION
Title: Smoke Collector for Diesel Engines	:

This is a decision on the "Petition for Omitted Drawings", filed August 17, 2004, which is treated as a petition under 37 CFR 1.53(b), requesting that the application be accorded a filing date of February 20, 2004, with Figure 3 of the drawings as part of the original disclosure.

The petition is **GRANTED**.

The application was filed on February 20, 2004. However, on August 10, 2004, the Office of Initial Patent Examination mailed a "Notice to File Corrected Application Papers". The Notice stated that the application had been accorded a filing date, but instructed applicant to submit a substitute specification because the line spacing was not 1 ½ or double spaced. In addition, the Notice mentioned that Figure 3 of the drawings as described in the specification appeared to have been omitted.

In response, on August 17, 2004, applicant filed a corrected specification in response to the Notice, together with the present petition. Applicant states that Figure 3 of the drawings was included with the application as filed on February 20, 2004. In support thereof, applicant has pointed the Office's attention to the transmittal letter filed with the application, transmitting two sheets of informal drawings. Applicant has also submitted a cash register receipt from the U.S. Postal Service.

Upon review of the record, the missing drawing sheet containing Figure 3 has been located among the application papers.

Given the basis for granting this petition, the petition fee will be refunded to petitioner under separate cover.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 20, 2004, using the application papers filed on that date, and for an indication in Office records that 2 drawing sheets were present on filing.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at 571-272-3207.

Nancy Johnson for

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RONALD F. BALINGIT
6320 MEADOW HAVEN DRIVE
AGOURA HILLS, CA 91301

COPY MAILED

OCT 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Ronald F. Balingit	:	
Application No. 10/783,224	:	DECISION ON PETITION
Filed: February 20, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed February 20, 2004, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **DISMISSED**.

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

The present invention relates to particulate collectors, specifically to a smoke collector for removing smoke from the exhaust gas of Diesel engines. However, there is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basis-life sustaining natural elements." The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

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 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 Irvin Dingle at 571-272-3210.

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

The application is being forwarded to the Technology Center Art Unit 1724 for action in its regular turn.

Amelia Au
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

ANN M. LEE
ATTORNEY
L-703
P.O. BOX 808
LIVERMORE, CA 94551

COPY MAILED

JUN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Alan F. Jankowski, et al.	:	
Application No. 10/783,230	:	ON PETITION
Filed: February 19, 2004	:	
Attorney Docket No. IL-10692B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed June 9, 2005. This decision precedes the mailing of a Notice of Abandonment.

The application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

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

The application file is being forwarded to Technology Center AU 1745, for further processing of the request for continued examination under 37 CFR 1.114 filed January 13, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SYNTHES
1302 WRIGHTS LANE EAST
WEST CHESTER, PA 19380

Mail Date: 04/21/2010

Applicant	: Ross Jonathan Hamel	: DECISION ON REQUEST FOR
Patent Number	: 7615051	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/783,233	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Keisuke Inoue	: DECISION ON REQUEST FOR
Patent Number	: 7614053	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/783,246	: 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 **1317** 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 : 5/27/10

TO SPE OF : ART UNIT 1624 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/783,251 Patent No.: 7,417,041

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

Thank You For Your Assistance

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

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

SPE /James O. Wilson/ **ART UNIT** 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT M. HUNTER PLLC
P. O. BOX 2709
KAMUELA, HI 96743

COPY MAILED

MAY 3 1 2007

OFFICE OF PETITIONS

In re Application of	:
John S. Lovell et al	:
Application No. 10/783,264	: DECISION ON PETITIONS
Filed: February 19, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 04-0220-LOV	:

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed January 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) to the prior-filed applications set forth in the concurrently filed amendment; namely, nonprovisional Application No. 10/681,671 and provisional Application No. 60/416,994.

The petition is **GRANTED.**

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

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

Additionally, this application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The rule at 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1755 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/783,264	02/19/2004	1755	3426	04-0220-LOV	60	24

CONFIRMATION NO. 7316

CORRECTED FILING RECEIPT

OC000000024147408

26357
ROBERT M. HUNTER PLLC
P.O. BOX 2709
KAMUELA, HI 96743

Date Mailed: 05/31/2007

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)

John S. Lovell, Arvada, CO;
Craig S. Turchi, Lakewood, CO;
Thomas E. Broderick, Arvada, CO;

Power of Attorney: The patent practitioners associated with Customer Number **26357**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/134,178 04/26/2002 PAT 6,719,828
which claims benefit of 60/287,939 04/30/2001
This application 10/783,264
is a CIP of 10/681,671 10/07/2003 PAT 7,048,781
which claims benefit of 60/416,994 10/07/2002

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 US10/783,264

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Regenerable high capacity sorbent for removal of mercury from flue gas

Preliminary Class

502

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 : 07-16-08

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/783274** Patent No.: **7304683**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: It is noted that on page 1 the application is incorrectly identified as 10/385775. The application is 10/783274

SPE

2622
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Chun-Pok Leung
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of:
Shotaro OHNO et al
Application No. 10/783,283
Filed: February 20, 2004
For: STORAGE SYSTEM AND SETTING METHOD FOR STORAGE CONFIGURATION INFORMATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on July 25, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

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

Applicant's submission of July 25, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

SPE: D. Ometz

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/8/07

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/783,296 Patent No.: 7184102

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

6/8/07

DAVID OMETZ
SUPERVISORY PATENT EXAMINER
SPE

2622
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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

COPY MAILED

NOV 15 2004

OFFICE OF PETITIONS

In re Application of
Yegor Sinelnikov, Young Zou, Reinhard Warnking, James Savage, Robert C. Pacheco, Jaime Merino, Patrick David Lopath, John Hotmer, and Todd Fjield
Application No. 10/783,310
Filed: February 20, 2004
Attorney Docket No. TRANS 3.0-055
Title: CARDIAC ABLATION DEVICES

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.182, filed May 24, 2004, to change the order of the names of the inventors.

Petitioner has requested that the order of the inventor's names be changed so that they are listed in the following order:

Yegor Sinelnikov
Young Zou
Reinhard Warnking
James Savage
Robert C. Pacheco
Jaime Merino
Patrick David Lopath
John Hotmer
Todd Fjield

As it turns out, this *is* the order in which the inventors are listed.

As such, the petition is **DISMISSED AS MOOT**.

The petition fee of $130.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

After this decision is mailed, the application file will be forwarded to Technology Center 3700 for further processing.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Yegor Sinelnikov et al.	:	
Application No. 10/783,310	:	DECISION ON PETITION
Filed: February 20, 2004	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(B)
TRANS 3.0-055	:	
Title: CARDIAC ABLATION	:	
DEVICES	:	

This is a decision on the petition filed January 3, 2008, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed May 25, 2007, which set a shortened statutory period for reply of three months. An after-final amendment was received on October 19, 2007 along with 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.

two-month extension of time, and an advisory action was mailed on November 15, 2007. No additional extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on October 26, 2007.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, and the proper statement of unintentional delay. No terminal disclaimer is required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment filed on October 19, 2007 - can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. 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

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

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

NATIONAL STARCH AND CHEMICAL COMPANY
P.O. BOX 6500
BRIDGEWATER NJ 08807-3300

COPY MAILED

MAY 29 2007

OFFICE OF PETITIONS

In re Application of :
Pinter, et al. :
Application No. 10/783,315 :
Filed: February 20, 2004 :
Attorney Docket No. 3017A.EEM :
For: WATERBASED HIGH ABRASION
RESISTANT COATING

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 22, 2005(certificate of mailing date February 17, 2005), requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond to Notice to File Missing Parts of Nonprovisional Application, mailed May 17, 2004, which set an extendable two month period for reply. The Office contended this application became abandoned on July 18, 2004 for failure to reply. A Notice of Abandonment was mailed on February 10, 2005.

The Office of Initial Patent Examination mailed a Withdrawal of Previously Sent Notice on May 24, 2005 that informed applicants that the Notice of Abandonment, mailed February 10, 2005 was mailed in error. The May 24, 2005 Notice enclosed a filing receipt.

In light of the above, the petition under 37 CFR 1.181 is dismissed as moot. 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 forwarded to Publications Division for processing into a patent.

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

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

DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST
SUITE 210
PONTIAC, MI 48342

COPY MAILED
NOV 19 2008

In re Application of	:	
Michael J. CZaplicki, et al.	:	
Application No. 10/783,326	:	ON PETITION
Filed: February 14, 2001	:	
Attorney Docket No. 1001-133	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 19, 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 September 12, 2006. A Notice of Abandonment was mailed on August 21, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1796 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

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

DANIEL J. WARREN
SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE ST., NE
ATLANTA GA 30308

COPY MAILED

JAN 22 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,009,840 :
Issued: March 7, 2006 :
Application No. 10/783,333 :
Filed: February 20, 2004 :
Attorney Docket Number: 20674.0005 :

This is a decision on the request filed April 26, 2006 to correct the assignee's name on the front of the Patent, which is being treated as a request under 37 CFR 3.81(b)[1]

The petition is **GRANTED**.

A request for certificate of correction was filed April 11, 2006 but was not in compliance with 37 CFR 3.81 and therefore was dismissed in a decision mailed April 20, 2006.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Comes now Petitioner stating that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent in that the assignment was recorded with the parent application, application no. 09/397,817. Further, petitioner has included the processing fee in the amount of $130.00 as set forth in § 1.17(i).

---

[1] *See* Official Gazette of June 22, 2004

In view thereof, and since Office assignment records reflect that FHS ACQUISITION, LLC is the assignee of record, the request complies with the provisions of 37 CFR 3.81(b) and it is therefore appropriate for a certificate of correction to issue.

The petition fee in the amount of $130.00 and the fee for the certificate of correction in the amount of $100 have been applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

COPY MAILED

APR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Christopher Erwin et al	:	
Application No. 10/783,335	:	DECISION ON PETITION
Filed: February 20, 2004	:	TO WITHDRAW
Attorney Docket No. PA2621US	:	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 1, 2006.

The request is **APPROVED**.

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

The request was signed by Colleen M. Raphael on behalf of all attorneys of record who are associated with Customer No. 22830. Applicant is reminded that there is no attorney of record at this time.

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

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Cynthia Parks
Parks Knowlton LLC
1117 Perimeter Center West
Suite W-307
Atlanta, GA 30338

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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

MAILED

SEP 2 8 2005

Technology Center 2100

In re Application of:
ARAI et al.
Application No. 10/783,337
Filed: February 20, 2004
For: MAGNETIC DISK ARRAY DEVICE WITH PROCESSING OFFLOAD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 9, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

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

Applicant's submission of July 19, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

COPY MAILED

APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Addison Chen	:	
Application No. 10/783,345	:	DECISION ON PETITION
Filed: February 20, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SPL3004P2	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed February 17, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

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

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

The application is being forwarded to the Technology Center Art Unit 2133 for action on the merits commensurate with this decision.

Denise Pothier
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

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

Mail Date: 04/21/2010

Applicant	: Kousuke Touura	: DECISION ON REQUEST FOR
Patent Number	: 7652790	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/783,370	: 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 **1010** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 18 2010

OFFICE OF PETITIONS

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

In re Application of	:	
David A. Matthews, et al.	:	
Application No. 10/783,382	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No.: MS1-2014US	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 26, 2010, to revive the above-identified application.

The petition is not signed by an attorney or agent of record; however, in accordance with 37 CFR 1.34(a), the signature of Randall T. Palmer appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 2, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed December 2, 2009, which set a statutory period for reply of three (3) months. It is noted that a Request for Continued Examination (RCE) under 37 CFR 114 was filed on February 16, 2010, which is within the period for paying the issue fee; however, the RCE was improper since it failed to included a proper submission under 37 CFR 1.114. Accordingly, the application became abandoned by operation of law on March 3, 2010. This decision precedes the mailing of a Notice of Abandonment.

On March 26, 2010, the present petition was filed, wherein petitioners request that the application be revived for consideration of a RCE under 37 CFR 1.114. Another RCE request and fee accompanied the present petition, along with an Information Disclosure Statement. However, in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply under 37 CFR 1.137(b) must be the payment of the issue fee or any outstanding balance thereof. Accordingly, the $1,510 issue fee is being charged to counsel's deposit account as authorized.

Further, 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and

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

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the application is revived for consideration of a submission under 37 CFR 1.114 (request for continued examination).

Since it is noted that petitioners submitted a RCE filing fee with the present petition and the improper request of February 16, 2010, counsel's deposit account will be credited $810 for the RCE filing fee overpayment.

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 March 26, 2010, be applied towards the issue fee required by the new Notice of Allowance.

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

The application file is being forwarded to Technology Center AU 2174 for further processing of the request for continued examination under 37 CFR 1.114 filed March 26, 2010.

Sherry D. Brinkley

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

JOHN SOKOL
9839 Vernon Ave.
Montclair, California

In re Application of:	:	
Sokol et al.	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/783,385	:	
Filed: December 13, 2005	:	
Attorney Docket No.: **16869-003001**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 13, 2005.

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

The request meets all the above stated requirements. The request was signed by Tim H. Pham, on behalf of himself and all the attorneys associated with Customer No. 26181.

The request is APPROVED. There are no attorneys of record at this time.

All future communications from the Office will be directed to, the law office of Fish & Richardson P.C., at the address indicated below until otherwise notified by applicant.

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

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

cc: FISH & RICHARDSON P.C.
PO Box 1022
Minneapolis, Minnesota 55440-1022

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 SOKOL
9839 Vernon Ave.
Montclair, California

In re Application of:	:	
Sokol et al.	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/783,385	:	
Filed: December 13, 2005	:	
Attorney Docket No.: **16869-003001**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 13, 2005.

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

The request meets all the above stated requirements. The request was signed by Tim H. Pham, on behalf of himself and all the attorneys associated with Customer No. 26181.

The request is APPROVED. There are no attorneys of record at this time.

All future communications from the Office will be directed to, the law office of Fish & Richardson P.C., at the address indicated below until otherwise notified by applicant.

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

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

cc: FISH & RICHARDSON P.C.
PO Box 1022
Minneapolis, Minnesota 55440-1022

RECEIVED
CENTRAL FAX CENTER
DEC 13 2005

Attorney's Docket No.: 16869-003001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Sokol et al.
Serial No. : 10/783,385
Filed : February 19, 2004
Title : SYSTEM AND APPARATUS FOR HEAT REMOVAL

Art Unit : 2835
Examiner : Michael V. Datskovskiy

Attention: Group Director
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD

The undersigned attorney, on behalf of himself and the other attorneys of record, who are members or associates in the firm of FISH & RICHARDSON P.C., or who were so listed at the time of their appointment, and on behalf of any associate attorneys appointed by any of the attorneys on whose behalf this petition is filed, including the following: Practitioners registered under Customer Number 26181, requests the approval of the Commissioner to withdraw as attorney(s)/agent(s) of record.

The present mailing address of the attorney(s)/agent(s) of record is:

Customer No. 26181
Fish & Richardson P.C.
PO Box 1022
Minneapolis, MN 55440-1022

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

12-13-2005
Date of Transmission

Carlos A. Brasil
Signature

Carlos A. Brasil
Typed or Printed Name of Person Signing Certificate

The undersigned does not know where future correspondence to the applicant should be mailed. The last known addresses for the applicant are indicated below in no particular order.

Harrison Rose
2533 Diericx Drive
Mountain View, CA 91763

K.R.S. Murthy
4312 Albany Drive
#M166
San Jose, CA 95129

John Sokol
9839 Vernon Ave.
Montclair, CA 91763

Allen Amaro
4104 Converse St.
Fremont, CA 94538

The reason for which the permission of the Commissioner is sought for withdrawal of the attorneys/agents of record is that the attorneys have received conflicting instructions and/or information from different members of Nisvara's Board of Directors. In particular, there is a dispute among the members of the board. A first party of the board alleges that the employment of a second party of the board has been terminated. The second party alleges the first party is perpetrating fraud and that further support for and communication with the first party should be avoided. The disputing parties have placed the attorneys/agents of record in a position in which continued representation would likely either (i) violate attorney-client privilege and/or an obligation of confidentiality; or (ii) violate instructions to avoid supporting and communicating with the first party.

Notice of the attorney's request to withdraw is being sent simultaneously to the applicant and the relevant papers and files will immediately be sent the applicants at the above address upon approval of the request by the Commissioner.

At least thirty days remain for the applicant to take any action due in this case or an appropriate request for extension of time accompanies this request seeking additional time.

RECEIVED
CENTRAL FAX CENTER 001

DEC 13 2005

Attorney's Docket No.: 16869-003001

OFFICIAL COMMUNICATION FACSIMILE:

OFFICIAL FAX NO: (571) 273-8300

Number of pages including this page 10

Applicant : Sokol et al.
Serial No. : 10/783,385
Filed : February 19, 2004

Art Unit : 2835
Examiner : Michael Datskovskiy

Title : SYSTEM AND APPARATUS FOR HEAT REMOVAL

Attention: Group Director
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is a Request for Permission to Withdraw as Attorney of Record, faxed this 13th day of December, 2005, to the United States Patent and Trademark Office.

Respectfully submitted,

Date: December 13, 2005

Tim H. Pham
Reg. No. 48,589

Customer No. 26181
Fish & Richardson P.C.
Telephone: (650) 839-5070
Fax: (650) 839-5071

50312229.doc

NOTE: This facsimile is intended for the addressee only and may contain privileged or confidential information. If you have received this facsimile in error, please immediately call us collect at (650) 839-5070 to arrange for its return. Thank you.

United States
Patent And
Trademark Office

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

PETITION DECISION

08/18/04

James C. Edwards
Alston & Bird LLP
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/783392 received on 07/26/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NOV - 2 2004

Schwartz Law Firm, P.C.
South Park Towers
Suite 530
6100 Fairview Road
Charlotte, NC 28210

MAILED
NOV - 2 2004
OFFICE OF THE DIRECTOR
TC 3600

In re application of
Lee Mantis
Application No. 10/783,403
Filed: February 20, 2004
For: ORGANIZER ATTACHMENT FOR VEHICLE SUN VISOR

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition filed April 5, 2004 to make the above-identified application special. The petition will be taken as a petition to make the above-identified application special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed April 5, 2004 lacks requirements 2(B) and 2(C) above.

In view of these deficiencies, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner 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.

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

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

KJD/rwg: 10/25/04

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/783,417	02/19/2004	1638	520	045600/274146	6	23	4

CONFIRMATION NO. 6391

CORRECTED FILING RECEIPT

OC000000013305389

00826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 07/22/2004

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

Applicant(s)

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 60/448,806 02/20/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/31/2004

Projected Publication Date: 10/28/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

AXMI-006, a delta-endotoxin gene and methods for its use

Preliminary Class

435

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

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.
10/783,417	02/19/2004	Nadine Carozzi	045600/274146	6391

826 7590 03/20/2009
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER
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.

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 2 0 2009

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.: 10/783,417	: PETITION DECISION
Filed: February 19, 2004	:
Attorney Docket No.: **045600/274146**	

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/19/06

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/783441** Patent No.: **7095697**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: The deletion of DE 4308680 on page 2 of the Letter Patent is not approved because this document was considered and not printed in duplicate in the Patent.

SPE

2627
Art Unit

OIPE
DEC 11 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Number: 7,095,697 B2
Issued: August 22, 2006
Name of Patentee: Gotoh et al.
Title of Invention: OPTICAL DISK, AN OPTICAL DISK BARCODE FORMING METHOD, AN OPTICAL DISK REPRODUCTION APPARATUS, A MARKING FORMING APPARATUS, A METHOD OF FORMING A LASER MARKING ON AN OPTICAL DISK, AND A METHOD OF MANUFACTURING AN OPTICAL DISK

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

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO AND APPLICANT'S MISTAKE (37 CFR 1.322(a) & 37 C.F.R. § 1.323)

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

Attention: Decision and Certificate of Correction
Branch of the Patent Issue Division

1. It is noted that errors appear in this patent of a
   - ☐ clerical
   - ☒ typographical
   - ☐ minor

   nature or character, as more fully described below. It occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A certificate of correction is requested.

2. Attached in duplicate is Form PTO-1050, with at least one copy being suitable for printing.

3. The exact columns and line numbers where the errors occur in the patent are:

   On page 2 of the Letters Patent, (56) References Cited, FOREIGN PATENT DOCUMENTS, delete the following:

   DE 4308680 10/1993
   EP 553545 8/1993

12/12/2006 SLUANG1 00000050 7095697
01 FC:1811 100.00 OP

DEC 15 2006

On page 2 of the Letters Patent, (56) References Cited, OTHER PUBLICATIONS, add the following:

-- European Search Report dated August 30, 2002, application No. EP 02 015194--

In column 2, line 18 of the Letters Patent, "when" should read -- to --.

In column 2, line 52 of the Letters Patent, delete "13th".

In column 3, line 13 of the Letters Patent, "aid" should read -- said --.

In column 9, line 67 of the Letters Patent, "818b" should read -- 818h --.

In column 10, line 7 of the Letters Patent, "81a" should read -- 819a --.

In column 10, line 60 of the Letters Patent, "form" should read -- form. --.

In column 13, line 54 of the Letters Patent, "(c)" should read -- (C) --.

In column 21, line 44 of the Letters Patent, "Furthers" should read -- Further --.

In column 22, line 28 of the Letters Patent, "0000" should read -- 01000 --.

In column 28, line 35 of the Letters Patent, "the-invention" should read -- the invention --.

In column 28, line 56 of the Letters Patent, "focusing-on" should read -- focusing on --.

In column 30, line 52 of the Letters Patent, "ECG" should read -- ECC --.

In column 31, line 15 of the Letters Patent, "PGA" should read -- PCA --.

In column 31, line 25 of the Letters Patent, "0s" should read -- 0s as shown in Figure 14(b) --

In column 33, line 30 of the Letters Patent, "the-user" should read -- the user --.

In column 35, line 44 of the Letters Patent, "p-rated" should read -- pirated --.

In column 39, line 60 of the Letters Patent, "865i" should read -- 865j --.

DEC 1 5 2003

4. Please send the Certificate to:

Name: Lawrence E. Ashery
P.O. Box 980
Valley Forge, PA 19482

5. Please pay the $100.00 fee required by 37 C.F.R. § 1.20(a) as follows:

☐ Attached is a check in the amount of $100.00
☒ Authorization is hereby made to charge the amount of $100.00
☐ to Deposit Account No. 18-0350.
☐ as shown on the attached credit card information
☒ authorization form PTO-2038.
☒ Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 18-0350.

A duplicate copy of this paper is attached.

Respectfully submitted,

Lawrence E. Ashery, Reg. No. 34,515
Attorney for Applicants

LEA/ds

Enclosure: Form PTO-1050 (in duplicate)

Dated: December 7, 2006

P.O. Box 980
(610) 407-0700

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 Attn: Decision and Certificate of Correction Branch of the Patent Issue Division on:

December 7, 2006

Deborah Spratt

ds/82675

DEC 1 5 2006

PTO/SB/44 (04-05))
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 7,095,697 B2

APPLICATION NO.: 10/783,441

DATED: AUGUST 22, 2006

INVENTOR(S): YOSHIHO GOTOH ET AL.

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

Page 2, Item (56) References Cited, FOREIGN PATENT DOCUMENTS
Delete
DE 4308680 10/1993
EP 553545 8/1993

Page 2, Item (56) References Cited, OTHER PUBLICATIONS
Add
-- European Search Report dated August 30, 2002, application No. EP 02 015194--

Column 2
Line 18, change "when" to -- to --

Column 2
Line 52, delete "13th"

Column 3
Line 13, change "aid" to -- said --

Column 9
Line 67, change "818b" to -- 818h --

Column 10
Line 7, change "81a" to -- 819a --

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

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 completing the form, call 1-800-PTO-9199 and select option 2.

DEC 15 2006

PTO/SB/44 (04-05))
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 7,095,697 B2

APPLICATION NO.: 10/783,441

DATED: AUGUST 22, 2006

INVENTOR(S): YOSHIHO GOTOH ET AL.

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

Column 10
Line 60, change "form" to -- form. --

Column 13
Line 54, change "(c)" to -- (C) --

Column 21
Line 44, change "Furthers" to -- Further --

Column 22
Line 28, change "0000" to -- 01000 --

Column 28
Line 35, change "the-invention" to -- the invention --

Column 28
Line 56, change "focusing-on" to -- focusing on --

Column 30
Line 52, change "ECG" to -- ECC --

Column 31
Line 15, change "PGA" to -- PCA --

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

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 completing the form, call 1-800-PTO-9199 and select option 2.

DEC 1 5 2006

PTO/SB/44 (04-05))
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 7,095,697 B2

APPLICATION NO.: 10/783,441

DATED: AUGUST 22, 2006

INVENTOR(S): YOSHIHO GOTOH ET AL.

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

Column 31
Line 25, change "0s" to -- 0s as shown in Figure 14(b) --

Column 33
Line 30, change "the-user" to -- the user --

Column 35
Line 44, change "p-rated" to -- pirated --

Column 39
Line 60, change "865i" to -- 865j --

Mailing Address of Sender:

RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

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 completing the form, call 1-800-PTO-9199 and select option 2.

DEC 1 5 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

COPY MAILED

MAR 30 2007

OFFICE OF PETITIONS

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

RECEIVED
CANCELLED
MAR 30 2007
OFFICE OF PETITIONS

In re Application of	:	
Kazutoshi Toda et al	:	
Application No. 10/783,447	:	DECISION GRANTING PETITION
Filed: February 20, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. F-8110	:	

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the response; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office Action of December 6, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3682.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

NOV 1 2 2008

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

In re Application of :
Erez Bashan, et. al. :
Application No. 10/783,472 : DECISION ON PETITION
Filed: February 20, 2004 :
Attorney Docket No. 40006985-0001-002 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, August 7, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on November 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 an Amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37CFR 1.34(a), the signature of Oren Reches appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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.

A courtesy copy of this decision is being mailed to the address of record.

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

This application is being referred to Technology Center AU 2619 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Oren Reches
Suite 100, North Union Street
Alexandria, VA 22314

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

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

Mail Date: 05/05/2010

Applicant	: Joseph J. Kubler	: DECISION ON REQUEST FOR
Patent Number	: 7646743	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/783,477	: 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 **1688** 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
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/783,481	02/20/2004	2818	1172	5649-1235	7	28	6

CONFIRMATION NO. 1306

CORRECTED FILING RECEIPT

OC000000012889871

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

Date Mailed: 06/07/2004

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

Applicant(s)

Tae-joong Song, Kyungki-do, KOREA, REPUBLIC OF;

Domestic Priority data as claimed by applicant

Foreign Applications

REPUBLIC OF KOREA 2003-36748 06/09/2003

If Required, Foreign Filing License Granted: 05/13/2004

Projected Publication Date: 12/09/2004

Non-Publication Request: No

Early Publication Request: No

Title

Memory devices having bit line precharge circuits with off current precharge control and associated bit line precharge methods

Preliminary Class

365

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, VA22313-1450
www.uspto.gov

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

COPY MAILED

JUN 2 2 2007

OFFICE OF PETITIONS

In re Application of
Peter J. Hayward et al.
Application No. 10/783,497
Filed: February 20, 2004
Attorney Docket No. 19642-00008

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

This is a decision on the petition filed January 17, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not comply with item (1).

An amendment has been provided which notes that the instant application is a Continuation-in-Part of application no. 10/097,921. The amendment fails to note the relationship however between the instant application and application nos. 10/685,057 and 10/777,231. Thus the amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

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 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 or 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
40l Dulany Street
Alexandria, VA 22314

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

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

Nancy Johnson
Senior Petitions 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

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

COPY MAILED

AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of
Peter J. Hayward et al.
Application No. 10/783,497
Filed: February 20, 2004
Attorney Docket No. 19642-00008

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

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed June 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional applications 10/097,921.

The petition is **GRANTED**.

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

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

A petition filed January 17, 2007 was dismissed in a decision mailed June 22, 2007 because while the amendment provided noted that the instant application is a Continuation-in-Part of application no. 10/097,921, the amendment failed to note the relationship however between the instant application and application nos. 10/685,057 and 10/777,231. Thus the amendment failed to comply with the provisions of 37 CFR 1.78(a)(2)(i) and was therefore unacceptable.[1]

[1] 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a

Comes now petitioner with the instant renewed petition and amended specification.

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

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

A corrected Filing Receipt, which includes the priority claim to prior-filed nonprovisional application 10/097,921 accompanies this decision on petition.

It should be noted however that based upon the amendment filed with the renewed petition, the amendment appears to note that the instant application is related to applications 10/685,057 and 10/777,231 but does not purport to claim the benefit of applications 10/685,057 and 10/777,231.

In view of the above, if in fact petitioner intends to claim the benefit of applications 10/685,057 and 10/777,231, a separate petition under 37 CFR 1.78, with an amendment properly noting the relationship between the instant application and application nos. 10/685,057 and 10/777,231 will have to be filed.

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

---

continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

This application is being forwarded to Technology Center Art Unit 1724 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/783,497	02/20/2004	1724	450	647P007	13	3

CONFIRMATION NO. 2135

CORRECTED FILING RECEIPT

OC000000025112171

28534
MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH, MA 01581

Date Mailed: 07/31/2007

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

Applicant(s)

Peter J. Hayward, Pinawa, CANADA;
Richard Higgins, Reading, MA;
Robert L. Goldsmith, Wayland, MA;
Bruce A. Bishop, Arlington, MA;

Power of Attorney: The patent practitioners associated with Customer Number **28534**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/097,921 03/13/2002 PAT 6,695,967

Foreign Applications

If Required, Foreign Filing License Granted: 05/13/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/783,497

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

High CTE reaction-bonded ceramic membrane supports

Preliminary Class

055

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DUSTIN S. DUBOIS
ICE MILLER
ONE AMERICAN SQUARE
BOX 82001
INDIANAPOLIS IN 46282-0002

COPY MAILED

APR 0 6 2005

OFFICE OF PETITIONS

In re Application of Kevin B. Kline Application No. 10/783,502 Filed: February 20, 2004 Attorney Docket No. P00799-US-01 (20680.0001)	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This decision is in response to the petition under 37 CFR 1.47(a) filed July 13, 2004.

The petition is **DISMISSED**.

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

The above-identified application was filed February 20, 2004 without an executed oath or declaration. Accordingly, on May 13, 2004, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration.

In response, on July 13, 2004, the present petition was filed, accompanied by the late filing surcharge. Applicant seeks status under 37 CFR 1.47(b) because it is asserted that 1) the instant application is the nationalization of PCT/US/27056 filed August 23, 2002, 2) the instant application is identical to the PCT application, 3) the inventor refused to sign the request to allow the applicant to proceed without his signature under PCT Rule 4.15(b) and in accordance with 37 CFR 1.425 and 4) by decision dated September 5, 2003, the Petition under 37 CFR 1.425 filed June 25, 2003 was granted.

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

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

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

(3) the petition fee;
(4) a statement of the last known address of the non-signing inventor;
(5) proof of proprietary interest, and
(6) proof of irreparable damage.

The petition lacks items (2).

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official PTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in part, the following:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111.
>
> * * *
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111.

The "UTILITY PATENT APPLICATION TRANSMITTAL" filed on February 20, 2004 indicated that the application was a filing of a new nonprovisional application under 37 CFR 1.53(b) The transmittal letter used by applicant is to be used only with submissions under 35 U.S.C. 111(a). Note that the letter has the statement "(Only for new nonprovisional applications under 37 CFR 1.53(b))." The filing under 37 CFR 1.53(b) is only directed to application filed under 35 U.S.C. 111(a). The first page of the specification indicated that the application was a naturalization and claim benefit of the PCT Application PCT/US02/27056. This is not considered a clear instruction to treat the application as a national stage application of the PCT Application. Thus the application was properly treated by OIPE as a filing under 35 U.S.C. 111(a). Even if applicant had given instruction to file a national stage application, the application would have been treated as a 111(a) application since applicant the transmittal letter would have been considered as a conflicting instructions and the papers would have been right fully considered as having been filed under 35 U.S.C. 111(a).

The application is deemed to have been filed under 35 U.S.C. 111(a).

CONTINUATION APPLICATION

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 10/783,502) and the international application (PCT/US02/27056)

designating the United States were copending on February 20, 2004. In order to obtain benefit of the earlier international application, applicant must amend the beginning of the specification of this application by inserting a proper reference to the parent international application. An appropriate passage would be, "This is an continuation of international application PCT/US02/27056, filed August 23, 2002, which designated the United States and is now abandoned."

An oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. The oath or declaration submitted with the instant petition is not executed by the sole inventor or the assignee.

A declaration in compliance with 37 CFR 1.63, 1.64, and 1.67 must be presented, signed by all of the signing inventors, if any. If no inventor(s) will sign the declaration, the declaration may be signed on behalf of the inventor by an assignee. The oath or declaration must be signed by an officer of the corporation (president, vice president, secretary, or treasurer) on behalf of and as agent for the non-signing inventor(s). The officer must identify his/her title in the declaration. If the oath or declaration is not signed by an officer of the corporation, then proof of authority of the person signing on behalf of the corporation must be submitted.[1]

A petition fee in the amount of $130.00 has been charged to deposit account no. 09-0007.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(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

DUSTIN S. DUBOIS
ICE MILLER
ONE AMERICAN SQUARE
BOX 82001
INDIANAPOLIS IN 46282-0002

COPY MAILED

AUG 0 5 2005

OFFICE OF PETITIONS

In re Application of Kevin B. Kline Application No. 10/783,502 Filed: February 20, 2004 Attorney Docket No. P00799-US-01 (20680.0001)	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This decision is in response to the request for reconsideration filed July 14, 2005 under 37 CFR 1.47(b) .

The petition is **DISMISSED**.

A decision mailed April 6, 2005, dismissing the petition filed July 13, 2004 under 37 CFR 1.47(b), set a response period of two (2) months. No response having been filed and no request for an extension of time, the instant application became abandoned June 7, 2005. Accordingly, a Notice of Abandonment was mailed July 15, 2005, subsequent to the filing of the instant request for reconsideration under 37 CFR 1.47(b).

In view of the abandonment, the instant request for reconsideration under 37 CFR 1.47(b) cannot receive consideration.

Please refer to the Notice of Abandonment mailed July 15, 2005 for options to have the abandonment withdrawn or for having the application revived.

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DUSTIN S. DUBOIS
ICE MILLER
ONE AMERICAN SQUARE
BOX 82001
INDIANAPOLIS IN 46282-0002

COPY MAILED

SEP 02 2005

OFFICE OF PETITIONS

In re Application of
Kevin B. Kline
Application No. 10/783,502
Filed: February 20, 2004
Attorney Docket No. P00799-US-01
(20680.0001)

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This decision is in response to the request for reconsideration filed August 29, 2005, under 37 CFR 1.47(b) and in response to the petition under 37 CFR 1.137(b) filed on even date.

The petition under 37 CFR 1.47(b) is **GRANTED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application was filed February 20, 2004 without an executed oath or declaration. Accordingly, on May 13, 2004, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47 was filed July 13, 2004 accompanied by the late filing surcharge and was dismissed in a decision mailed April 6, 2005 because and acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 had not been provided. The decision set a two month period for response. No response to the decision having been timely filed, the application became abandoned June 7, 2005. A Notice of Abandonment was mailed July 15, 2005. In the interim however, a request for reconsideration was filed on July 14, 2005 but could not receive reconsideration until a grantable petition under 37 CFR 1.137 had been filed.

In response, the present petition was filed. Applicant seeks status under 37 CFR 1.47(b) because it is asserted that 1) the instant application is the nationalization of PCT/US/27056 filed August 23, 2002, 2) the instant application is identical to the PCT application, 3) the inventor refused to sign the request to allow the applicant to proceed without his signature under PCT Rule 4.15(b) and in accordance with 37 CFR 1.425 and 4) by decision dated September 5, 2003, the Petition under 37 CFR 1.425 filed June 25, 2003 was granted.

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

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

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

(3) the petition fee;

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

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

An oath or declaration executed by Robert B. Eveleigh, President of Lawler Manufacturing Company, the assignee, for the assignee and on behalf of the non-signing inventor has been presented. All requirements under 37 CFR 1.47(b) therefore having been met, 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.

In view of the above and the requirements for reviving the application having therefore been met, the petition under 37 CFR 1.137(b) is also granted.

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

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

JAN 28 2010

OFFICE OF PETITIONS

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

In re Application of	:	
Roth et al.	:	
Application No. 10/783,518	:	ON APPLICATION FOR
Filed: 02/20/2004	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 112855.124 (US2)	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705 filed November 30, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred ninety-six (1,496) days, not six hundred eighty-nine (689) 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]

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).

---

[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.

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.

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

DUANE MORRIS LLP
101 WEST BROADWAY, SUITE 900
SAN DIEGO, CA 92101

COPY MAILED

AUG 08 2007

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,098,091	:	
Issue Date: August 29, 2006	:	
Application No. 10/783,553	:	
Filed: February 20, 2004	:	
Attorney Docket No. E0523-00050	:	

This is a decision on the petition under 37 CFR 1.182, filed March 26, 2007, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Krystal Paige at (703) 308-9250 ext. 139.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Krystal Paige, South Tower 8th Floor, C-32 Fax (571) 270-9937.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 17 2006

TECHNOLOGY CENTER 2100

Paper No.

Roger H. Chu
19499 Eric Drive
Saratoga, CA 95070

In re Application of:
William W. Feng, et al.
Application No. 10/783,562
Filed: February 19, 2004
For: METHOD AND SYSTEM FOR NUMERICALLY SIMULATING FOAM-LIKE MATERIAL IN FINITE ELEMENT ANALYSIS

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. ∋1.102(c) AND MPEP ∋708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed July 21, 2005, under 37 C.F.R. ∋1.102(c) and M.P.E.P. ∋708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. ∋1.102 and in accordance with M.P.E.P. ∋708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of William W. Feng's Affidavit/Declaration establishing that applicant is sixty five (65) years of age or more. Accordingly, the petition is **GRANTED.**

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

James R. Matthews

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

COPY MAILED

MAR 2 2 2007

OFFICE OF PETITIONS

In re Application of Oshima, et. al. Application No. 10/783,588 Filed: February 23, 2004 Attorney Docket No. 2004_0285	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR §1.183

This is a decision on the March 9, 2007, "Petition Under 37 CFR 1.183 to Accept Substitute Specification in Reissue Application" requesting waiver of the 37 CFR 1.125(d) prohibition against the filing of a substitute specification in a reissue application. The petition is being treated pursuant to 37 CFR 1.183 for waiver of 37 CFR 1.173(a)(1) in addition to waiver of 37 CFR 1.125(d).

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is GRANTED.

A fee of $400.00 has been received and processed for the petition under 37 CFR 1.183.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification filed on February 23, 2004. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d). 37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The substitute specification filed on February 23, 2004 is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

The reissue application was originally filed with a specification that did not comply with 37 CFR 1.173(a)(1). On February 23, 2004, a substitute specification was filed together with a preliminary amendment. Within the "REMARKS" section of the preliminary amendment, applicant states: "Since this is a reissue application, the substitute specification includes bracketing and underlining to show the changes relative to the patent specification."

Petitioner is requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) based on 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.[1]"

This basis is considered to be sufficient for granting the petition. The rule will be waived to comply with the requirement of the examiner, since there is no other way to present the required substitute specification, and the requirement for the substitute specification by the examiner is deemed appropriate.

CONCLUSION

1. The request under 37 CFR 1.183 to waive the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) is granted.

2. The substitute specification filed on February 23, 2004 is accepted, and will be entered.

3. The reissue application file is being forwarded to the Technology Center for further action as appropriate.

4. Telephone inquiries with regard to this decision should be directed to Amelia Au, Office of Petitions, at (571) 272-7414.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

[1] No other record of the referenced telephone conversation can be found in this application file.

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

BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
PO BOX 210459
SAN FRANCISCO CA 94121-0459

COPY MAILED

SEP 14 2006

OFFICE OF PETITIONS

In re Application of :
Robert Peter Enston :
Application No. 10/783,595 :
Filed: February 21, 2004 :
Attorney Docket Number: HDRA001

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 3, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of December 19, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 20, 2006. This decision precedes the mailing a Notice of Abandonment.

This petition is hereby **Granted**.

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

This application is being forwarded to Technology Center 3700 for further processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 30 2009

OFFICE OF PETITIONS

BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
PO BOX 210459
SAN FRANCISCO, CA 94121-0459

In re Application of	:	
Robert Peter Enston	:	
Application No. 10/795,595	:	DECISION ON PETITION
Filed: February 21, 2004	:	
Attorney Docket No. HDRA001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 20, 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 February 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. 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 3753 for appropriate action by the Examiner in the normal course of business on the reply received March 18, 2009.

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
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
10/783,601	02/20/2004	2673	986	9314-60	8	32	3

CONFIRMATION NO. 1548

CORRECTED FILING RECEIPT

OC000000012962183

Elizabeth A. Stanek
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, NC 27627

Date Mailed: 06/16/2004

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)

William O. Camp JR., Chapel Hill, NC;
Daniel P. Homiller, Cary, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/13/2004

Projected Publication Date: 08/25/2005

Non-Publication Request: No

Early Publication Request: No

Title

Thumb-operable man-machine interfaces (MMI) for portable electronic devices, portable electronic devices including the same and methods of operating the same

Preliminary Class

345

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

GRANTED

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

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

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

NOT GRANTED

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

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, P.A
PO BOX 37428
RALEIGH NC 27627

COPY MAILED

OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
CAMP, William O., Jr. et al.
Application No.: 10/783,601
Filed: February 20, 2004
Attorney Docket No.: 9314-60

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GREGORY T. ZALECKI
12900 HALL ROAD
SUITE 401
STERLING HEIGHTS MI 48313

COPY MAILED

JAN 03 2005

OFFICE OF PETITIONS

In re Application of
Jerome P. Frankowiak
Application No. 10/783,602
Deposited: February 20, 2004
Title of Invention: FOLDING FRAMING SQUARE

: ON PETITION

This is a decision on the petition filed December 10, 2004, requesting that above-identified application be accorded a filing date of February 20, 2004, with the specification and oath or declaration as a part of the original disclosure. This petition is treated under 37 CFR 1.53.

The petition is **DISMISSED**.

Effective November 22, 2004, the petition fee has been increased from $130.00 to $400.00. Therefore, since the fees submitted are deficient and since no deposit account has been authorized, this petition cannot be treated on the merits and will not receive any consideration until such time as $270.00 has been submitted. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

The application will be retained in the Office of Petitions for two months after which time if the fees have not been submitted, the application will be forwarded to the Office of Initial Patent Examination and the proceedings terminated. A request for reconsideration with the appropriate fees 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
Office of Petitions

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

GREGORY T. ZALECKI
12900 HALL ROAD
SUITE 401
STERLING HEIGHTS MI 48313

COPY MAILED

MAR 0 2 2005

OFFICE OF PETITIONS

In re Application of
Jerome P. Frankowiak
Application No. 10/783,602
Filed: February 20, 2004
Title of Invention: FOLDING FRAMING SQUARE

: ON PETITION

This is a decision on the request for reconsideration filed February 24, 2005, requesting that above-identified application be accorded a filing date of February 20, 2004, with the specification and oath or declaration as a part of the original disclosure. The request is treated as a petition under 37 CFR 1.53.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on February 20, 2004. However, on October 4, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicant that the application had not been accorded a filing date because a complete specification including at least one claim was required and an oath or declaration were missing.

In response, a petition under 37 CFR 1.10, 1.53 and 1.181 was filed on December 10, 2004 because the proper petition fees had not been submitted. The petition filed December 10, 2004 included, an express mail label and a date-stamped postcard receipt itemized to show, amongst other things, that an 18 page specification and declaration were filed on February 20, 2004.

Petitioner submits a copy of the Express Mail label as proof that the application as filed was complete, and argues under 37 CFR 1.10(e) that the application should be accorded a filing date of February 20, 2004. The Express Mail label however is not persuasive evidence of the receipt of the complete specification and declaration on February 20, 2004. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10 to establish what documents and or fees were filed in the Office with such correspondence. Reliance on an express mail label is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

The postcard receipt however, corroborates petitioners assertion that the

application as filed on February 20, 2004 was complete and the true copies of the application satisfies the requirements as set out in the Notice mailed October 4, 2004.

No arguments have been presented for relief under 37 CFR 1.181 and thus cannot therefore be addressed. Petitioner is invited to contact the Office if this is not a correct interpretation of the petition.

In view of the foregoing, the petition under 1.53 is **GRANTED** and the petition under 37 CFR 1.10 and 1.181 is **DISMISSED**.

Given the basis for granting the petition, the petition fees filed with the petition on December 10, 2004 in the amount of $130.00 and $270.00 submitted with the request for reconsideration will be refunded.

This matter os being referred to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of February 20, 2004, using the application papers received in the Office on that date and the papers submitted on petition December 10, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 08-06

Paper No: __

COPY MAILED
SEP 1 1 2006
OFFICE OF PETITIONS

ORSCHELN MANAGEMENT CO
2000 US HWY 63 SOUTH
MOBERLY MO 65270

In re Application of	:	
Heimann, et al.	:	
Application No. 10/783,606	:	DECISION
Filing Date: 20 February, 2004	:	
Attorney Docket No.: EL021RH-2	:	

This is a decision on the petition filed on 15 July, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a final Office action mailed on 29 November, 2005, with reply due absent extension of time on or before 1 March, 2006;
- the application went abandoned by operation of law after midnight 1 March, 2006;
- the Office mailed the Notice of Abandonment on 16 June, 2006
- on 15 July, 2006, Petitioner filed the instant petition with fee and the reply in the form of a request for continued examination and fee and an amendment as the submission under 37 C.F.R. §1.114, and made the statement of unintentional delay..

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

---

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

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

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

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

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

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

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

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

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

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

(1) Holding certain facts to have been established;
(2) Returning papers;
(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]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to the Allegations
of Unintentional Delay

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

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

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

The instant application is released to Technology Center 1700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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

FELIX L FISCHER ATTORNEY AT LAW
1607 MISSION DRIVE
SUITE 204
SOLVANG CA 93463

COPY MAILED

AUG 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Sylvester, et al.	:	
Application No. 10/783,616	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. M004 100110	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2009.

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 March 23, 2009. This Notice set a statutory period for reply of three months for issue fee transmittal. No issue fee having been received, the application became abandoned on June 24, 2009. The Office mailed a Notice of Abandonment on July 7, 2009.

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

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 01-06

Paper No: __

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

COPY MAILED

JAN 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Silkaitis, et al.	:	DECISION
Application No. 10/783,640	:	
Filing Date: 5 May, 2003	:	
Attorney Docket No. 7135US03	:	

This is a revised decision on the petition filed on 14 April, 2005, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

(It is noted, however, that Petitioner appears unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.181, and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner Michael Crabb (Reg. No. 37,298) failed to reply timely and properly to a Notice of Missing Parts mailed on 13 May, 2004, with a reply due, absent extension of time, on or before 13 July, 2004;

- the application went abandoned after midnight 13 July, 2004;

- Notice of Abandonment was mailed on 9 February, 2005;

- Petitioner filed the instant petition on 14 April, 2005, and argued there that he had not received the Notice of Missing Parts and that he had examined his files and his docket and no such document and/or notation thereof was in evidence.

What the record also reveals, and Petitioner fails to mention, are that:

- the Notice of Missing Parts properly was mailed to the then-address of record, to wit: Steven F. Weinstock, Abbott Labortatories, 100 Abbott Park Road, Dept. 377/AP6A, Abbott Park, IL 60064-6008;

- as of 14 April, 2005, and the filing of the instant petition–which indicates no mailing address but rather a Customer Number 41155 set forth at the end of the paper and which number apparently is associated with the address set forth at the top of this paper, to wit: Brian R. Woodworth, 275 N. Field Drive, Dept. Nleg Bldg H-1, Lake Forest Il 60045-2579–Petitioner had not noticed the Office of a change of address;

- moreover, Petitioner did not so notice the Office of a change of address until 3 August, 2005, at which time Petitioner filed a Revocation/Power of Attorney.

Petitioner might review the Commentary at the Manual of Patent Examining Procedure (MPEP) Chapter 600 (specifically §601.03), Chapter 700 (specifically §711.03(c)), and Chapter 2000 (specifically §2001 and §2001.03).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the requirements for properly supporting a petition seeking

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

withdrawal of a holding of abandonment.[7]

As the history set forth in the Background, above, clearly indicates, Petitioner has not satisfied these requirements.

CONCLUSION

Because Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**.

ALTERNATIVE VENUE

Petitioner's clear inability make a showing to support the instant petition leaves as Petitioner's only alternative to irretrievable abandonment a petition alleging unintentional delay under 37 C.F.R. §1.137(b).[8]

Therefore, Petitioner may wish to consider filing a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay.

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form provided and available online.)

Further correspondence with respect to this matter should be addressed as follows:[9]

By mail: Commissioner for Patents[10]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

[8] The regulations at 37 C.F.R. §1.183 sets forth that waiver of the rules is "subject to such other requirements as may be imposed."

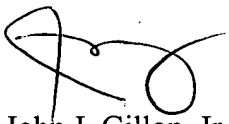
[9] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[10] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

In re Application of
Silkaitis, et al.
Application No. 10/783,640
Filing Date: 5 May, 2003
Attorney Docket No. 7135US03

DECISION

This is a decision on the renewed petition filed on 30 May and resubmitted on 31 May 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181, alternatively to revive alleging unintentional delay under 37 C.F.R. §1.138(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner Michael Crabb (Reg. No. 37,298) failed to reply timely and properly to a Notice of Missing Parts mailed on 13 May, 2004, with a reply due, absent extension of time, on or before 13 July, 2004;
- the application went abandoned after midnight 13 July, 2004;
- Notice of Abandonment was mailed on 9 February, 2005;

- Petitioner filed the instant petition on 14 April, 2005, and argued there that he had not received the Notice of Missing Parts and that he had examined his files and his docket and no such document and/or notation thereof was in evidence;

- however, the record is clear that:

  –the Notice of Missing Parts properly was mailed to the then-address of record, to wit: Steven F. Weinstock, Abbott Labortatories, 100 Abbott Park Road, Dept. 377/AP6A, Abbott Park, IL 60064-6008;

  –as of 14 April, 2005, and the filing of the instant petition–which indicates no mailing address but rather a Customer Number 41155 set forth at the end of the paper and which number apparently is associated with the address set forth at the top of this paper, to wit: Brian R. Woodworth, 275 N. Field Drive, Dept. Nleg Bldg H-1, Lake Forest Il 60045-2579–Petitioner had not noticed the Office of a change of address; and

  –moreover, Petitioner did not so notice the Office of a change of address until 3 August, 2005, at which time Petitioner filed a Revocation/Power of Attorney; and

  accordingly, the 30 January, 2006, petition was dismissed on 30 May, 2006, for failing to satisfy the burden of proof;

- the renewed petition traces an extensive history of the corporate creation, spinoff and merger, transfer of assets (including interests in the instant application) and associated support activities provided by Petitioner and his colleagues–including efforts to obtain a new customer number–however, the fundamental failure of proof as to the burden to obtain withdrawal of the holding of abandonment is that: <u>no Notice of Change of Address was filed in the instant application before the mailing of the Notice of Missing Parts, such that the mailing in question was directed to the address of record as of that mailing and, thereafter, no timely and proper reply was filed to the Notice of Missing Parts mailed in the instant application on 13 May, 2004</u>;

- in addition to seeking to re-advance the request to withdraw the holding of abandonment, Petitioner also filed a petition under 37 C.F.R. §1.137(b), with fee, and reply in the form of the oath/declaration and fee/surcharge and made a statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the requirements for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

As the history set forth in the Background, above, clearly indicates, Petitioner has not satisfied these requirements.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

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

CONCLUSION

Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, and the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; however, Petitioner appears to have satisfied the regulatory requirements, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to OIPE for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJr: 02-06

Paper No: __

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

COPY MAILED
FEB 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Holland, et al.	:	
Application No. 10/783,641	:	DECISION ON PETITION
Filed: 20 February, 2004	:	
Attorney Docket No. 7135US01	:	

This is a decision on the petition filed on 14 April, 2005, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The petition is **DISMISSED**.

BACKGROUND

A review of the application file reveals that:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts (oath/declaration) mailed on 14 May, 2004, with reply due under a non-extendable deadline on or before 14 July, 2004;
- the application went abandoned after midnight 14 July, 2004;
- the Office mailed a Notice of Abandonment on 9 February, 2005;
- on 14 April, 2005, Petitioner Michael Crabb (Reg. No. 37,298) filed the instant petition, and averred that his review of his files and docket records indicated that the Notice of the 14 May, 2004, had not been received;

- it is noted that the record in the form of the oath/declaration, submitted by Petitioner, directed that correspondence was to be mailed to:

  Steven Weinstock
  Abbott Laboratories
  D-377/AP6A
  100 Abbott Park Road, Abbott Park, IL 60064-6050

  while the application transmittal, signed by Petitioner, directed that correspondence be mailed to the address corresponding to Customer No. 23, 492, which is:

  Steven Weinstock (later: Robert Debaradine)
  Abbott Laboratories
  D-377/AP6A
  100 Abbott Park Road, Abbott Park, IL 60064-6008

- it further is noted that Petitioner failed to file the instant petition within two (2) months of the date (9 February, 2005) of the act complained of (Notice of Abandonment);[1]

- nonetheless, for reasons that are unclear in the record, on 27 January, 2006, the Office appears to have withdrawn the holding of abandonment in this matter;

- while the withdrawal of the 9 February, 2005, holding of abandonment therefore appears inconsistent with Office policy because:

  –the required showing cannot be made due to Petitioner's conflicting and inconsistent correspondence instructions to the Office (an inconsistency which Petitioner has not addressed in the instant petition); and

  –Petitioner's instant filing was not timely under the applicable rule, and,

  thus, the withdrawal appears to have been in error, the action has been taken and the undersigned is not empowered to re-instate the Notice of Abandonment.

---

[1] See: 37 C.F.R. §1.181.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

The courts have outlined the construct for the granting of relief as to the withdrawal of the holding of abandonment. (See: *Delgar v. Schulyer.*[8])

---

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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

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

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

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

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

[8] *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

While the record appears to leave in question whether Petitioner satisfied the *Delgar* requirements to support the withdrawal of the holding of abandonment, it appears that the Office has so acted and no further action is required.

Accordingly, the instant petition under 37 C.F.R. §1.181 must be and hereby is **dismissed as moot**.

The instant application is released to OIPE for further processing as necessary before being released for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

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

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Holland et al. :
Application No. 10/783,642 :
Filed: February 20, 2004 :
Title: Medication Management System :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 14, 2005.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on May 14, 2004. The Notice to File Missing Parts 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 15, 2004. A Notice of Abandonment was mailed on February 10, 2005.

Petitioner contends the Office Communication mailed on May 14, 2004 was not received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. 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.

Petitioner has presented a sheet of paper purporting to be a docket report. However, the sheet is illegible. Further it is noted, that at the time of the mailing of the Notice petitioner was not the attorney of record. As such petitioner does not have first hand knowledge that the Notice was not received. Petitioner should provide evidence to establish that the Notice was not received by the previous attorney of record, or lost in the transition to a new law firm.

Petitioner may wish to seek revival under 37 CFR 1.137.

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
JUL 21 2006
OFFICE OF PETITIONS

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

In re Application of :
Holland et al. :
Application No. 10/783,642 : DECISION ON PETITION
Filed: May 30, 2003 :
Filed: February 20, 2004 :
Title: Medication Management System :

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

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts mailed on May 14, 2004. The Notice to File Missing Parts 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 15, 2004. A Notice of Abandonment was mailed on February 10, 2005. A petition filed under 37 CFR 1.181 was dismissed on March 20, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

Telephone inquiries concerning 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

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

MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 04/21/2010

Applicant	: George Mulcaire-Jones	: DECISION ON REQUEST FOR
Patent Number	: 7588544	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/783,647	: 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 **222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA22313-1450
www.uspto.gov

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST IL 60045-2579

COPY MAILED

MAY 10 2007

OFFICE OF PETITIONS

In re Application of
Geoffrey N. Holland et al.
Application No. 10/783,648
Filed: February 20, 2004
Attorney Docket Number: 7135US07

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513, filed April 14, 2005 and supplemented on June 8, 2006. The petition filed June 8, 2006 also pleads in the alternative to revive the instant application 37 CFR 1.137(b). [1]

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(b) is **GRANTED**.

The file record discloses that a Notice to File Missing Parts mailed May 13, 2004 was mailed to what was believed to be the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner provides a copy of a docket record as well as a statement that a search of the file and docket records show that the Notice mailed May 13, 2004 was not received.

---

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

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

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

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

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

At the time the Notice to File Missing Parts was mailed the address of record for the instant application was associated with customer number 23492. However, on August 3, 2005, after the mailing of the Notice and the mailing of the Notice of Abandonment, a Revocation and Power of Attorney was mailed changing the address of record to that of customer number 41155. While there was a modification to the customer number address, it does not appear that the modification was made prior to the mailing of the Notice to File Missing Parts mailed on May 13, 2004 and thus the failure to respond to the office action based on a claim of non-receipt is not due to USPTO error but instead appears to be due to the proper address not having been properly communicated to the USPTO.

In the absence of petitioner showing that they acted responsibly with respect to providing the USPTO with the proper address of the instant application, the showing of record is therefore insufficient to warrant withdrawal of the holding of abandonment.

With respect to the petition to revive, the petition fee in the amount of $1500.00 has been charged to deposit account no. 50-3118.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

10783677

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/2/2006

TO SPE OF : ART UNIT 2800 (2858)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,102,366

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 dwg shts 15, 16, 17, & 18 as req. in COCIN (10/24/2006) in Madras?**

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

Thank You For Your Assistance

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

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

Comments:

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

285 S
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Harvey A. Restaino	: DECISION ON REQUEST FOR
Patent Number	: 7598699	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/783,682	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/783,684	08/27/2004	Penny Anne Wallace	None

CONFIRMATION NO.
2646

Penny Anne Wallace
Apt 3
5501 Jacksboro Pk
Knoxville TN 37918

Date Mailed: April 21, 2006

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6967526	2005-11-22	10783691	2004-02-20	MAXM-0369

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

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

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

SURCHARGE

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

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael North/	Date (YYYY-MM-DD)	2009-12-23
Name	Michael V. North	Registration Number	46963

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6967526
Issue Date: November 22,2005
Application No. 10783691
Filed: February 20,2004
Attorney Docket No. 55123P270

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

This is a decision on the electronic petition, filed December 23,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 23,2009 . 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
www.uspto.gov

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

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

In re Application of Carrigan Application No. 10/783,725 Filed: February 20, 2004 Docket No.: P06256US01 - PHI 1204	DECISION ON PETITION

This is a decision on the petition for withdrawal of terminal disclaimer, filed May 1, 2007. This matter is being treated under 37 CFR 1.182. The remaining petition fee due, $270.00, has been charged to petitioner's deposit account as authorized.

The petition is **GRANTED**.

Petitioner requests withdrawal of the terminal disclaimer to U.S. Pat. No. 6,232,535 on the grounds that it was inadvertently submitted. As the examiner of record has concurred with petitioner's position, the terminal disclaimer to U.S. Pat. No. 6,232,535 submitted January 8, 2007 is hereby withdrawn.

This application is being forwarded to Technology Center 1600 for correction in the PALM database and file records consistent with this decision.

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

Haugen Law Firm
Suite 1130 - TCF Tower
121 South Eighth Street
Minneapolis, MN 55402

COPY MAILED

DEC 28 2004

OFFICE OF PETITIONS

In re Application of	:	
Low et al.	:	DECISION ACCORDING STATUS
Application No. 10/783,731	:	UNDER 37 CFR 1.47(a)
Filed: February 20, 2004	:	
Attorney Docket No. 2003-2034.ORI	:	

This is in response to the petition under 37 CFR 1.47(a), filed November 18, 2004. Petitioner obtained a four-month extension of time. Accordingly, the petition is filed timely.

The petition is granted.

Petitioner has shown that Scott Krentz, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Diana Low establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but refused the request that he sign the declaration.

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Scott Krentz
118-1/2 North Main Street
Stillwater, MN 55082

COPY MAILED

DEC 28 2004

OFFICE OF PETITIONS

In re Application of :
Low et al. : LETTER
Application No. 10/783,731 :
Filed: February 20, 2004 :
Attorney Docket No. 2003-2034.ORI :

Dear Mr. Krentz:

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

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

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

Christina Tartera Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Haugen Law Firm
Suite 1130 - TCF Tower, 121 South Eighth Street
Minneapolis, MN 55402

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

CHEVRON PHILLIPS CHEMICAL COMPANY
5601 Granite Parkway, Suite 750
PLANO TX 75024

COPY MAILED

MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
KNUDSEN, et al.	:	
Application No. 10/783,737	:	DECISION GRANTING PETITION
Filed: February 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 210453US00(4081-04400)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 29, 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 17, 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 1713 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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
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
10/783,747	02/20/2004	1731	770	031039/273883	2	6	1

CONFIRMATION NO. 7368

CORRECTED FILING RECEIPT

OC000000013090342

00826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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)

Tord Gustavsson, Forshaga, SWEDEN;

Assignment For Published Patent Application

Metso Paper Karlstad AB;

Domestic Priority data as claimed by applicant

This application is a CON of 09/962,278 09/24/2001
which is a CON of PCT/SE00/00183 01/31/2000

Foreign Applications

SWEDEN 9901092-8 03/25/1999

If Required, Foreign Filing License Granted: 05/13/2004

Projected Publication Date: 08/19/2004

Non-Publication Request: No

Early Publication Request: No

Title

Suspension arrangement for a roll

Preliminary Class

162

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

MAIL

MAY 1 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: LE MOAL, et al.
Application No. 10/783,753
Filed: February 20, 2004
For: STORAGE DEVICE ADAPTER EQUIPPED WITH INTEGRATED CACHE

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

This is a response to the petition filed 07 April 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

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

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

ds

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

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

COPY MAILED

JAN 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Saar **DRIMER**	:	
Application No. 10/783,762	:	DECISION ON PETITION
Filed: February 20, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **X-1500 US**	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before October 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 22, 2008. Accordingly, the date of abandonment of this application is October 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510, (2) the petition fee of $1620; 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

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

PETITION DECISION

04/02/04

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd
Seventh Floor
Los Angeles, Ca 90025-1030

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/783765 received on 03/10/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 05/17/2010

Applicant	: Leon Zheng	: DECISION ON REQUEST FOR
Patent Number	: 7660841	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/783,789	: 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 **1074** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CALFEE HALTER & GRISWOLD
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

COPY MAILED

FEB 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeff Kuret et al	:	DECISION GRANTING
Application No. 10/783,795	:	PETITION
Filed: February 18, 2004	:	
Attorney Docket No. 22727/04157	:	

This is a decision on the petition under 37 CFR 1.10(d), filed August 13, 2004, requesting that the above-identified application be accorded a filing date of February 18, 2004, rather than the presently accorded filing date of February 20, 2004.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 18, 2004. The petition is accompanied by, inter alia, a "true" copy of the relevant page of petitioner's "Express Mail Deposit Log" with the following headings: date, Express Mail Label No., Client/Matter No., Place of Dep., Date of Dep., Time of Dep., Last Pickup at Place of Dep., and Depositor's Initials/Signature. Further, petitioner submits a copy of the USPS Track and Confirm record confirming that the package bearing Express Mail label No. EL084752846US was enroute to Cleveland, OH on February 18, 2004, the same Express Mail Number found on the original Application Transmittal Letter located in the official file.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on February 18, 2004. Accordingly, the instant application is entitled to a filing date of February 18, 2004, and has been so accorded.

The petition is granted. The $130.00 petition fee is being credited to Deposit Account No. 03-0172 as authorized.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing with a filing date of February 18, 2004.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 271-3220.

Frances Hicks for
Brian Hearn
Senior 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

IVAX CORPORATION
4400 BISCAYNE BOULEVARD
MIAMI, FL 33137

COPY MAILED

JUN 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Barney et al.	:	
Application No. 10/783,796	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. NHC0071-USA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 20, 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 timely obtained. Accordingly, the above-identified application became abandoned on July 21, 2004.

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

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 $2160.00 extension of time fee submitted with the petition on January 20, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

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

Liana Chase

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090323

DATE : March 23, 2009

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7126014

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

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

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Janet L Andres/
Supervisory Patent Examiner.Art Unit 1625

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

NOV 09 2005

TECHNOLOGY CENTER 3600

RAY R. REGAN, Esq.
P.O. BOX 1442
CORRALES, NM 87048

In re application of John E. Liebendorfer Application No. 10/783,808 Filed: February 21, 2004 For: LOW PROFILE MOUNTING SYSTEM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENT/ENERGY)**

This is a decision on the petition filed October 27, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality and Section VI: Energy.

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 statements by John E. Liebendorfer that the claimed invention materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of basic life-sustaining natural elements since each solar electric module deployed preserves petroleum and natural gas for application to other uses.

These statements are insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality. In this regard, Mr. Liebendorfer statements are lacking in that they fail to explain, and establish for the record, how applicants' invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil. Mr. Liebendorfer's invention is directed to a mounting system and the statements in the petition fail to explain how the mounting system contributes to the restoration or maintenance of basic life-sustaining natural elements.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must

be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition includes statements by John E. Liebendorfer that the claimed invention contributes to energy conservation by preserving petroleum and natural gas for application to other uses and makes the installation of solar electric (photovoltaic) modules more cost effective, thus contributing to the more efficient utilization and conservation of energy resources.

These statements are insufficient to grant a petition under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section VI: Energy. The statements do not provide any evidence that the invention of this application directly and primarily contributes to energy efficiency or more efficient utilization of energy resources. The statements by Mr. Liebendorfer fail to set forth how the mounting system contributes to energy conservation and more efficient utilization and conservation of energy resources.

The petition to make special based on Environmental Quality is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants 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.

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

KJD/bkg: 11/1/05

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

WILMERHALE/DC
1875 PENNSYLVANIA AVE., NW
WASHINGTON, DC 20006

Mail Date: 04/20/2010

Applicant	: John E. Liebendorfer	: DECISION ON REQUEST FOR
Patent Number	: 7600349	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/783,808	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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 : 05/01/06

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/783825 Patent No.: 6998920

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. 183

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: _____

Rexford Barnie — SPE

2819 — Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

BEST AVAILABLE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8704

COPY MAILED

NOV 1 2 2008

OFFICE OF PETITIONS

In re Application of
Leon Zheng, et al.
Application No. 10/783,829
Filed: February 20, 2004
Attorney Docket No. 174/293

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 14, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before August 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 12, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 13, 2008. On August 14, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on August 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $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

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

ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

COPY MAILED

NOV 27 2009

OFFICE OF PETITIONS

In re Application of
Gail E. MCGIFFIN, et al.
Application No. 10/783,841
Filed: February 20, 2004
Attorney Docket No. **10022/444**

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 24, 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 28, 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]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. John F. Nethery appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Nethery desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3694 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
WWW.USPTO.GOV

Paper No. None

James J. DeCarlo
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York NY 10038

COPY MAILED

MAR 02 2005

OFFICE OF PETITIONS

In re Application of
Kevin Ellis, Christina Wodtke, Jennifer Crakow, and Qi Lu
Application No. 10/783,862
Filed: February 20, 2004
Attorney Docket No. 694231/0090 JD/KCE
Title: SYSTEM AND METHOD FOR PROVIDING AN IMPROVED GRAPHICAL USER INTERFACE FOR SEARCH

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed November 15, 2004.

On February 20, 2004, the application was deposited, identifying Kevin Ellis, Christina Wodtke, Jennifer Crakow, and Qi Lu as joint inventors. The application was deposited with an unexecuted declaration. On May 14, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

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

Along with the instant petition, Petitioner has submitted the petition fee, the surcharge, a four-month extension of time, a statement of facts, copies of several letters, a declaration that has been executed by each of the joint inventors save Ms. Wodtke, and the last known address of the same.

The petition has met requirements (1) – (4) above.

Regarding the fifth requirement, petitioner has not submitted a declaration which complies with 37 CFR §1.63. The declaration submitted with the instant petition contains non-initialed and non-dated changes by joint inventors Ellis and Crakow[2].

For this reason, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a properly executed declaration along with a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(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.

To help assure prompt and proper attention to your response, please see Request for Alert Concerning Submitted Petitions, 1282 Official Gazette (May 18, 2004) for further information on how to assist the Office in delivering your submission to the correct location. The Petitioner may wish to consider telephoning the undersigned one month after the submission is made to confirm that the documents were properly delivered.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

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

Paul Shanoski

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

2 See 37 C.F.R. §1.52(c)(1) and MPEP 605.04(a).
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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

James J. DeCarlo
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York NY 10038

COPY MAILED

MAY 2 3 2005

OFFICE OF PETITIONS

In re Application of
Kevin Ellis, Christina Wodtke, Jennifer Crakow, and Qi Lu
Application No. 10/783,862
Filed: February 20, 2004
Attorney Docket No. 694231/0090 JD/KCE
Title: SYSTEM AND METHOD FOR PROVIDING AN IMPROVED GRAPHICAL USER INTERFACE FOR SEARCH

DECISION ON RENEWED PETITION

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed May 2, 2005.

On February 20, 2004, the application was deposited, identifying Kevin Ellis, Christina Wodtke, Jennifer Crakow, and Qi Lu as joint inventors. The application was deposited with an unexecuted declaration. On May 14, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

The original petition was submitted on November 15, 2004 and was dismissed via the mailing of a decision on March 2, 2005, for failure to include an acceptable declaration.

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

The renewed petition cannot be accepted, as it has not been signed[2].

For this reason, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a properly executed submission along with a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(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.

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

The application file will be retained in the Office of Petitions for two (2) months.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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

Paul Shanoski

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

cc: James J. DeCarlo
Greenburg Traurig, LLP
200 Park Avenue
New York, NY 10166

---

2 See 37 C.F.R. §1.4 and MPEP §502.02.

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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

GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

COPY MAILED

JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Kevin Ellis, Christina Wodtke, Jennifer Crakow, and Qi Lu
Application No. 10/783,862
Filed: February 20, 2004
Attorney Docket No. 694231/0090 JD/KCE
Title: SYSTEM AND METHOD FOR PROVIDING AN IMPROVED GRAPHICAL USER INTERFACE FOR SEARCH

DECISION ON SECOND RENEWED PETITION

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed June 3, 2005.

On February 20, 2004, the application was deposited, identifying Kevin Ellis, Christina Wodtke, Jennifer Crakow, and Qi Lu as joint inventors. The application was deposited with an unexecuted declaration. On May 14, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that an executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

The original petition was submitted on November 15, 2004 and was dismissed via the mailing of a decision on March 2, 2005, for failure to include an acceptable declaration.

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

The renewed petition was submitted on May 2, 2005, and was dismissed via the mailing of a decision on May 23, 2005 as being unacceptable as it had not been signed.

With this second renewed petition, Petitioner has signed the petition. It is noted that the previous renewed petition contained a declaration which had been properly executed by joint inventors Ellis and Crakow.

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

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

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

Paul Shanoski

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

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

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST, IL 60045-2579

COPY MAILED
APR 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Howard, et al.	:	
Application No. 10/783,877	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. 7172US01	:	

This is a decision on the petition under 37 CFR 1.181, filed April 14, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

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."

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 17, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the above-identified application became abandoned on July 18, 2004. A Notice of Abandonment was mailed on February 10, 2005.

Petitioner contends the Office action was never received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993) and MPEP 711.03(c).

The copy of the "docket record" submitted in support of the instant petition is, unfortunately, barely legible. As such, it is impossible to determine whether the "docket record" properly indicates where the non-received Office communication would have been entered had it been received and docketed. Accordingly, the petition must be dismissed.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED
JUL 1 1 2006
OFFICE OF PETITIONS

BRIAN R. WOODWORTH
275 N. FIELD DRIVE
DEPT. NLEG BLDG H-1
LAKE FOREST, IL 60045-2579

In re Application of	:	
Howard, et al.	:	
Application No. 10/783,877	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. 7172US01	:	

This is a decision on the renewed petition under 37 CFR 1.181, filed June 2, 2006, to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 17, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the above-identified application became abandoned on July 18, 2004. A Notice of Abandonment was mailed on February 10, 2005.

A petition under 37 CFR 1.181 to withdraw the holding of abandonment was filed April 14, 2005. A decision granting the petition by the Office of Initial Patent Examination was mailed on July 29, 2005. A copy of the decision granting the petition is not found in the application file, however, petitioner has provided a copy concurrently with the instant petition.

Accordingly, the petition is **dismissed** as moot.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER OF PATENTS

July 29, 2005

Michael R. Crabb
Hospira, Inc.
275 North Field Dr.
Dept. NLEG, Bldg. H-1
Lake Forest, Il 60045

In re Application of:
G. A. Howard, et al
Serial No.: 10/783,877 On Petition
Filing Date: February 20, 2004
For: **SYSTEM FOR MAINTAINING DRUG INFORMATION AND COMMUNICATING WITH MEDICATION DELIVERY DEVICES**

In response to the petition received on April 14, 2005, to withdraw the holding of abandonment in the above application.

The petition is Granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.D.R 1.113 in a timely manner to the Notice to File Missing Parts of Non Provisional Application mailed May 17, 2004. Which set forth a shortened statutory period for reply of two months. Accordingly, the above-identified application became abandoned July 18, 2004.

The evidence submitted is sufficient to establish that the petitioners did not received the Notice to File Missing Parts of non Provisional Application.

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

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

RECEIVED
AUG 05 2005
By

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

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

Mail Date: 04/21/2010

Applicant	: Joseph J. Kubler	: DECISION ON REQUEST FOR
Patent Number	: 7586861	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/783,888	: 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 **1597** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDALE FL 33322

COPY MAILED

MAR 1 7 2006

OFFICE OF PETITIONS

In re Application of :
Patino et al. :
Application No. 10/783,922 : ON PETITION
Filed: February 20, 2004 :
Attorney Docket Number: CE12398JEM

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of June 29, 2005. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 30, 2005. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

A four (4) 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, $1,480.00 will be credited to deposit account 50-2117 .

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

This application is being forwarded to Technology Center 2800 for further processing.

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

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

BUSKOP LAW GROUP, P.C.
4511 DACOMA STREET
HOUSTON TX 77092

COPY MAILED

JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Watson, Daniel	:	
Application No. 10/783,934	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. 1157.06	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 30, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 $510.00 extension of time fee submitted with the petition on April 30, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This matter is being referred to Technology Center 1700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

COPY MAILED

MAR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
David Mc Clure	:	
Application No. 10/783,935	:	DECISION ON PETITION
Filed: 02-20-2004	:	
Attorney Docket No. 28940-00172USPT	:	

This is a decision on the petition filed September 22, 2006, and resubmitted on February 15, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

On May 2, 2006, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period for reply. In the absence of a timely filed reply, the Office held the application abandoned and mailed a Notice of Abandonment on September 13, 2006.

Petitioner asserted that he timely paid the issue fee and publication fee in response to the Notice of Allowance. With the present petition, petitioner submitted a copy of the previously mailed reply in the form of a Transmittal Letter and Part B – Fee(s) Transmittal For, bearing a certificate of mailing dated August 1, 2006, as well as a copy of cancelled check number 312132 dated July 27, 2006, in the amount of $1,715.00 for payment of the issue fee, publication fee, and advanced order of five copies. Additionally, petitioner provided a copy of the return postcard with a USPTO date-stamp of August 7, 2006.

Pursuant to 37 CFR 1.8(b):

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is

dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to file a timely reply to the Notice of Allowance of May 2, 2006, is withdrawn and the application is restored to pending status.

The Office finance records indicate that the $1,715.00 check was processed by the USPTO on August 8, 2006; however, the money was applied to an incorrect application number. The Office will transfer the $1,715.00 payment to the present application.

This matter is being referred to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211. Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Patent Publication, Customer Service at (571) 272-4200.

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

STERNE, KESSLER, GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAILED

JUL 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Thomas A. Petersen et al	:	
Application No. 10/783,960	:	DECISION GRANTING PETITION
Filed: February 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1778.3290002	:	
(0187.02US)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 29, 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 June 19, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2188 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the IDS filed July 23, 2009.

/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.*

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. BENEFIEL
SUITE 100 B
280 DAINES STREET
BIRMINGHAM, MI 48009

COPY MAILED

DEC 16 2005

OFFICE OF PETITIONS

In re Application of	:
Jack R. Bratten	:
Application No. 10/783,969	: DECISION GRANTING PETITION
Filed: February 20, 2004	: UNDER 37 CFR 1.137(b)
Attorney Docket No. FSC-190	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2005, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on February 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 March 23, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3220.

This matter is being referred to Technology Center Art Unit 1724 to await applicant's reply to the non-final Office mailed September 26, 2005.

Wan Laymon

Wan Laymon
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
www.uspto.gov

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

COPY MAILED

DEC 28 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael J. Simmons, et al. :
Application No.: 10/783,981 :
Filed: February 19, 2004 :
Attorney Docket No.: 3141-6218US :

This is a decision on the petition, filed December 26, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 9, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 3781 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

COPY MAILED

JUL 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Adamson et al.	:	
Application No. 10/784,008	:	ON PETITION
Filed: February 19, 2004	:	
Attorney Docket No. 3435.02US01	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 5, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

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

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

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

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3639 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAY 27 2004

NORMAN P. SOLOWAY
HAYES SOLOWAY P.C.
130 W. CUSHING STREET
TUCSON AZ 85701

In re Application of	:
Joseph L. Owades	:
Serial No.: 10/784,020	: PETITION TO MAKE SPECIAL
Filed: February 19, 2004	:
Attorney Docket No.: OW-25	:

This is in response to applicants' petition filed February 19, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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
10/784,021	02/20/2004	2833	770	CE12619JAN	4	18	3

CONFIRMATION NO. 1749

CORRECTED FILING RECEIPT

OC000000013090836

34952
FLEIT, KAIN, GIBBONS, GUTMAN, BONGINI
& BIANCO P.L.
551 N.W. 77TH STREET, SUITE 111
BOCA RATON, FL 33487

Date Mailed: 06/30/2004

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

Applicant(s)

Vijay L. Asrani, Boynton Beach, FL;
Paul Morningstar, N. Lauderdale, FL;
Patrick L. Fariello, Boynton Beach, FL;

Assignment For Published Patent Application

MOTOROLA, INC., SCHAUMBURG, IL;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/14/2004

Projected Publication Date: 08/25/2005

Non-Publication Request: No

Early Publication Request: No

Title

AC grounding structure for electronics enclosure

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).

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

WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON, D.C. 20005-3502

COPY MAILED

MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:
Jean Servaux	:
Application No. 10/784,034	: DECISION ON PETITION
Filed: February 20, 2004	:
Attorney Docket No. 88265-68601	:
For: Packaging Comprising a	:
Container and a Membrane	:

This is in response to the petition under 37 CFR 1.47(b), filed on December 14, 2004. Applicant obtained an extension of time to reply within the fifth month. Accordingly, the petition is timely filed.

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(b)," 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 20, 2004, naming Jean Servaux as the sole inventor. The declaration submitted on filing was missing the signature of Jean Servaux. Accordingly, on May 14, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed declaration, a

$130.00 surcharge, and proof of authority of the legal representative under 37 CFR 1.44.[1]

In response, on December 14, 2004, applicant filed the present petition, a request for a five-month extension of time to reply, a declaration identifying the deceased inventor, Jean Servaux, and signed by the attorney of record, and paid the requisite fees. In the Statement of Facts, Alain Thomas stated that he presented a copy of the application papers to the legal representative, Chantal Servaux. Chantal Servaux informed Mr. Thomas in her letter of March 5, 2004, that she was unable to sign the declaration because she could not obtain the certificate of inheritance. A copy of the letter accompanies the petition. Mr. Smith stated that Jean Servaux was obligated under Swiss Law to assign all inventions made during the inventor's employment, including the invention claimed in the subject application to Nestec S.A. A copy of the Employment Agreement also accompanies the petition. Lastly, Mr. Thomas asserted that the filing of this application on behalf of the deceased inventor and the legal representative was necessary to preserve the rights of the party and to prevent irreparable damage.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and, (6) proof of irreparable damage. Applicant lacks items (2) and (5) as set forth above.

As to item (2), the Office notes that pursuant to Section 409.03(b)(A) of the Manual for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or

---

[1] The Notice erroneously required proof of authority of the legal representative under 37 CFR 1.44. Effective September 8, 2000, 37 CFR 1.44 was removed and reserved. See 65 FR 54604, Sept. 8, 2000.

> agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

The declaration submitted on petition fails to identify the name, residence, post office address and citizenship of the legal representative in addition to that of the deceased inventor. Applicant must submit a new declaration with blank signature blocks setting forth the inventor and legal representative by name. The declaration must also identify the countries of citizenship and mailing addresses of both the inventor and the legal representative. Lastly, the declaration must be signed a person authorized by the corporation. The Office reminds applicant that where the declaration is signed by a registered attorney on behalf of a corporation, either proof of the attorney's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney may simply state that he is authorized to sign on behalf of the corporation. The title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

As to item (5), applicant submitted a copy of the Employment Agreement between the deceased inventor and Nestec S.A. as evidence of proprietary interest. However, the copy of the Agreement was not submitted in English. Upon the filing of a renewed petition, applicant should submit a translation of the <u>relevant portions</u> of the Employment Agreement, which evidence the inventor's obligation to assign the subject invention to Nestec S.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 FAX: (703) 872-9306
Attn: Office of Petitions

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,045	02/20/2004	Jim D. Meador	32849	6833

7590 05/10/2005

Hovey Williams LLP
Suite 400
2405 Grand Blvd.
Kansas City, MO 64108

EXAMINER
MOORE, MARGARET G

ART UNIT	PAPER NUMBER
1712	

DATE MAILED: 05/10/2005

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

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

RPG
Paper No. 5/9/05

In re Application of Meador et al.
Serial No.: 10/784,045
Filed: February 20, 2004

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

For: THERMALLY CURABLE MIDDLE LAYER FOR 193-NM TRILAYER RESIST PROCESS

This is a decision on the PETITION TO CORRECT INVENTORSHIP, filed December 2, 2004 to correct inventorship under 37 CFR 1.48(a) by deleting the names of Denise Gum and Julie Wilson from the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; (4) providing the processing fee set forth in 1.17(i); and, (5) providing the written consent of the assignee.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1712
Technology Center 1700

Hovey Williams LLP
Suite 400
2405 Grand Blvd.
Kansas City, MO 64108

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

MAY 24 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	:
Charles Cunnyngham	:
Serial No.: 10/784,062	: SUSPENSION OF ACTION
Filed: February 20, 2004	:
Attorney Docket No.: P06298US02 - PHI 1467	:

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

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

§ 1.103 Suspension of action by the Office.

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

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

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

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

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

George C. Elliott

George Elliott
Director, Technology Center 1600

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

HUGHES LAW FIRM
PACIFIC MERIDIAN PLAZA
SUITE 302
4164 MERIDIAN STREET
BELLINGHAM, WA 98226-5583

COPY MAILED

JAN 23 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Arvin Shmilovich et al :
Application No. 10/784,067 :
Filed: February 20, 2004 :
Attorney Docket No. P114660 :

This is a decision on the petition under 37 CFR 1.314, filed January 9, 2005, to defer issuance of the patent.

The petition is **GRANTED**.

Issuance will be deferred for a period of one month from the date of this decision. At the end of this period, this matter will be referred to the Publishing Division to be processed into a patent.

If an additional deferral period is required, another petition and fee should be promptly submitted. The petition must include a showing of extraordinary circumstances; MPEP 1306.01.

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 Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
FROM DIRECTOR'S OFFICE
JUN 12 2006

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

TECHNOLOGY CENTER 3600

Stoneman Law Offices, LTD
3113 North 3rd Street
Phoenix, AZ 85012

APPROVED

In re Application of:	:	
Eric Owens	:	NOTICE OF WITHDRAWAL
Application No. 10/784,087	:	FROM ISSUE
Filed: 2/19/04	:	UNDER 37 CFR § 1.313
Attorney Docket No. P03820	:	

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. 37 CFR § 1.313

The above-identified application is hereby withdrawn from issue.

United States Patent and Trademark Office (USPTO) records indicate that the issue and publication fees have not yet been submitted. If the issue fee and publication fee has been submitted, applicant may request: (1) a refund; or, (2) that the fee be credited to a deposit account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Brian Glessner, 571-272-6843.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Donald T. Hajec, Director
Technology Center 3600

cc: Office of Patent Publication

6 Schoolhouse Way

Bianco, Jill

From: Glessner, Brian
Sent: Tuesday, June 06, 2006 4:09 PM
To: Bianco, Jill
Cc: Hajec, Don
Subject: 10/784,087

Jill,

Please withdraw this case from issue because of the unpatentability of one or more claims.

Thanks,

Brian

637
37 CFR 1.312(a)

PALM INTRANET

Day : Wednesday
Date: 6/7/2006
Time: 07:02:46

Application Number Information

Application Number: **10/784087** **Assignments**
Filing or 371(c) Date: **02/19/2004**
Effective Date: **02/19/2004**
Application Received: **02/23/2004**
Pat. Num./Pub. Num: **/20040168795**
Issue Date: **00/00/0000**
Date of Abandonment: **00/00/0000**
Attorney Docket Number: **P03820**
Status: **93 /NOTICE OF ALLOWANCE MAILED -- APPLICATION RECEIVED IN OFFICE OF PUBLICATIONS**
Confirmation Number: **7012**
Title of Invention: **WELL CAP SYSTEMS**

Examiner Number: **76116 / BATES, ZAKIYA**
Group Art Unit: **3676**
Class/Subclass: **166/075.130**
Lost Case: **NO**
Interference Number:
Unmatched Petition: **NO**
L&R Code: Secrecy Code:**1**
Third Level Review: **NO**
Oral Hearing: **NO**

IFW IMAGE

Waiting for Response Desc.
Mail N/=.
MN/DR

Secrecy Order: **NO**

Status Date: **04/14/2006**

Bar Code	PALM Location	Location Date	Charge to Loc	Charge to Name	Employee Name	Location

Appln Info Contents | Petition Info | Atty/Agent Info | Continuity Data | Foreign Data | Inventors | Addr

Search Another: Application# [ ] Search **or Patent#** [ ] Search
PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search
Attorney Docket # [ ] Search
Bar Code # [ ] Search

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

Day : Wednesday
Date: 6/7/2006
Time: 07:02:57

PALM INTRANET

Content Information for 10/784087

Search Another: Application# [ ] Search **or Patent#** [ ] Search
PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search
Attorney Docket # [ ] Search
Bar Code # [ ] Search

Appln Info **Contents** Petition Info Atty/Agent Info Continuity Data Foreign Data Inventors

Date	Status	Code	Description
04/17/2006		EIDC	EXPORT TO INITIAL DATA CAPTURE
04/14/2006	93	MN/=.	MAIL NOTICE OF ALLOWANCE
04/14/2006		MN/DR	MAIL FORMAL DRAWINGS REQUIRED
04/13/2006		IREV	ISSUE REVISION COMPLETED
04/13/2006		N/DR	FORMAL DRAWINGS REQUIRED
04/13/2006	90	N/=.	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETEI
04/13/2006		DOCK	CASE DOCKETED TO EXAMINER IN GAU
04/10/2006	89	CNTA	NOTICE OF ALLOWABILITY
02/08/2006		M865	LETTER REQUESTING INTERVIEW WITH EXAMINER
02/09/2006		FWDX	DATE FORWARDED TO EXAMINER
02/06/2006	71	A...	RESPONSE AFTER NON-FINAL ACTION
02/06/2006		XT/G	REQUEST FOR EXTENSION OF TIME - GRANTED
10/04/2005	41	MCTNF	MAIL NON-FINAL REJECTION
09/29/2005	40	CTNF	NON-FINAL REJECTION
07/13/2005		DOCK	CASE DOCKETED TO EXAMINER IN GAU
07/12/2004		TSSCOMP	IFW TSS PROCESSING BY TECH CENTER COMPLETE
07/12/2004	30	DOCK	CASE DOCKETED TO EXAMINER IN GAU
05/14/2004	20	WROIPE	APPLICATION RETURN FROM OIPE
05/14/2004	18	ROIPE	APPLICATION RETURN TO OIPE
05/14/2004	20	OIPE	APPLICATION DISPATCHED FROM OIPE
05/17/2004		COMP	APPLICATION IS NOW COMPLETE
03/24/2004		L194	CLEARED BY OIPE CSR
03/24/2004		CLSS	CASE CLASSIFIED BY L&R
03/08/2004		SCAN	IFW SCAN & PACR AUTO SECURITY REVIEW
02/19/2004	19	IEXX	INITIAL EXAM TEAM NN

Appln Info **Contents** Petition Info Atty/Agent Info Continuity Data Foreign Data Inventors

To go back use Back button on your browser toolbar.

Day : Wednesday
Date: 6/7/2006
Time: 07:03:01

PALM INTRANET

Attorney/Agent Information for 10/784087

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
STONEMAN, MARTIN	18147 (Attorney)	(602)263-9200
ERLICK, BENJAMIN	51656 (Agent)	(602)263-9200
FOLEY, DAPHNE	51687 (Agent)	(602)263-9200

Appln Info | Contents | Petition Info | **Atty/Agent Info** | Continuity Data | Foreign Data | Inventors | Addres

Search Another: Application# [ ] Search **or Patent#** [ ] Search
PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search
Attorney Docket # [ ] Search
Bar Code # [ ] Search

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

Day : Wednesday
Date: 6/7/2006
Time: 07:03:05

PALM INTRANET

Inventor Information for 10/784087

Inventor Name	City	State/Country
OWENS, ERIC	CHINO VALLEY	ARIZONA

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity Data | Foreign Data | **Inventors**

Search Another: Application# [ ] Search **or Patent#** [ ] Search
PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search
Attorney Docket # [ ] Search
Bar Code # [ ] Search

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

PALM INTRANET

Day : Wednesday
Date: 6/7/2006
Time: 07:03:09

Correspondence Address for 10/784087

Customer Number	Contact Information	Address
28548	Telephone: (602)263-9200 Fax: (602)277-4883 E-Mail: No E-Mail Address	STONEMAN LAW OFFICES, LTD 3113 NORTH 3RD STREET PHOENIX AZ 85012

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity Data | Foreign Data | Inventors

Search Another: Application# [ ] Search **or Patent#** [ ] Search

PCT / [ ] / [ ] Search **or PG PUBS #** [ ] Search

Attorney Docket # [ ] Search

Bar Code # [ ] Search

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10784087

Total Records Found: 3

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
02/08/2006	00000011	1	2251	$60.00	02/06/2006	DA 501887
02/26/2004	00000106	1	2001	$385.00	02/19/2004	CK
02/26/2004	00000107	1	2202	$81.00	02/19/2004	CK

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

SCHWEGMAN, LUNDBERG & WOESSNER, PA
P. O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffry B. Skiba	:	
Application No. 10/784,088	:	DECISION ON PETITION
Filed: February 19, 2004	:	TO WITHDRAW
Attorney Docket No. JBS 101	:	FROM RECORD
	:	

This is a decision on the requests to withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 4, 2006 and February 21, 2007.

The request is **DISMISSED** as moot.

The request filed on October 4, 2006 was submitted by Bradley A. Forrest on behalf of all the attorneys/agents of record and on behalf of all the attorneys/agents associated with Customer No. 21186. The file record discloses that a revocation and power of attorney by the assignee to the attorneys associated with Customer No. 21186 was filed on December 12, 2006 and accepted by the Office on September 17, 2007. Accordingly, the request to withdraw the attorneys/agents associated with Customer No. 21186 is dismissed as now involving a moot issue.

The request to withdraw as attorney filed on February 21, 2007 was signed by Sherry W. Schumm on behalf of all the attorneys/agents associated Customer No. 62486. A review of the file record indicates that the attorneys/agents associated with Customer No. 62486: (1) do not have power of attorney in this patent application; and (2) have been employed or otherwise engaged in the proceedings in this patent application, as evidenced by correspondence filed by Sherry W. Schumm, an attorney associated with Customer No. 62486, on July 18, 2006. However, in view of the revocation and power of attorney filed on December 12, 2006 revoking all previous powers of attorney, this request is also dismissed as involving a moot issue.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Meschkow & Gresham, P.L.C.
5727 North Seventh Street
Suite 409
Phoenix, AZ 85014

Sherry Schumm
c/o Intellevate, LLC
P. O. Box 52050
Minneapolis, MN 55402

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

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

COPY MAILED
NOV 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Henry W. Bonk, et. al.	:	
Application No. 10/784,090	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. 402200003DVC	:	

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

The 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 March 22, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) was 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 after midnight May 22, 2006. 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 and $500 fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1772, 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

Copied from 10704090 on 02/08/2007

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.
10/784,092	02/20/2004	Jennipher Grudzien	GBN-110-C	6907

22825 7590 06/18/2009
WILLIAM M HANLON, JR
YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084-3107

EXAMINER
LEVKOVICH, NATALIA A

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
06/18/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUN 18 2009

dss

In re Application of
Jennipher Grudzien et al.
Serial No. 10/784,092
Filed February 20, 2004

DECISION
ON
PETITION

For: REACTION SURFACE ARRAY DIAGNOSTIC APPARATUS

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY filed June 04, 2009 of the Office Action mailed February 03, 2009.

On July 09, 2008, a first office action was mailed to applicants, containing various grounds of rejection. Applicants responded to this office action with a response filed on November 10, 2008. A final rejection was then mailed February 03, 2009 with a 112 first paragraph rejection lacking written description of the claimed subject matter, "new matter. Applicant responded with an after final amendment under 37 CFR 1.116 in which the "new matter" was cancelled from the claims. The examiner then mailed an advisory action on May 27,2009 indicating wherein in the amendment after final would be entered upon filing an appeal and the original rejections of the July 09, 2008 action would be reinstated.

On June 04, 2009 a petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the February 03, 2009 office action.

Petitioner's position for the withdrawal of the finality is that the examiner intends to raise new rejections on Appeal which were not raised in the final office action.

DECISION

Section 706.07(a) of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action
Due to the change in practice as affecting final rejections, older decisions on questions of prematureness 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)..

Petitioner argues that the examiner is attempting to include rejections in the final office action which do not appear in the final office action. Petitioner further argues that the applicants have not received an opinion as to the affect applicant's claimed amendments and arguments submitted November 10, 2008 on the art rejections raised in the non-final Office action of July 09, 2008.

In response, it is clear that the examiner has followed proper procedure. It appears on its face that applicants' arguments and amendments of November 10, 2008 were considered by the examiner and the examiner issued a Final office action wherein no prior art rejections were made but only 112 rejections in response to such amendments. Thus the FINAL office action of February 03, 2009 was proper as necessitated by amendment. Applicant in response in the after final amendment filed May 07, 2009 overcame the 112 paragraph rejections and the examiner indicated that such would be entered upon appeal. The examiner also indicated that the original prior art rejections would be reinstated upon filing of appeal. The current appeal process permits new grounds of rejection within an examiner's answer, see MPEP 1207.03. Thus , it would be proper to introduce or reinstate the prior art rejections at such time as such would be in direct response to entering applicant's amendment filed May 07, 2009.

Accordingly, the petition for withdrawal of finality is DISMISSED.

It is also noted that upon entry of a new grounds of rejection in an examiner's answer, applicant has recourse to either maintain the appeal or reopen prosecution, see MPEP 1207.03 V.

/Gregory Mills/
Gregory Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

WILLIAM M HANLON, JR
YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084-3107

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

AVERILL & VARN
8244 PAINTER AVE.
WHITTIER CA 90602

COPY MAILED
JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Mark Forster et al. :
Application No. 10/784,096 : DECISION ON PETITION
Filed: February 23, 2004 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 134/116 :
Title: CANOPY RELEASE BUCKLE :
WITH DUAL ACTION RELEASE LEVER :

This is a decision on the petition filed on November 9, 2005, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

The Office regrets the period of delay in issuing this decision.

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

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner has submitted the petition fee, the proper statement of unintentional delay, and has concurrently filed a rescission of the previously made nonpublication request. As such, the second and third requirements of 37 C.F.R. §1.137(f) have been met.

Regarding the first requirement, Petitioner has failed to provide notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication. It is not clear on what date the application was filed in a foreign country or under a multinational treaty.

Accordingly, the petition under 37 C.F.R. §1.137(f) must be **DISMISSED.**

Any response must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The submission should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(f)."

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Petitioner is reminded that if an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made, and any petition fee would be refunded.

Paul Shanoski

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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

AVERILL & VARN
8244 PAINTER AVE.
WHITTIER CA 90602

COPY MAILED
AUG 28 2006
OFFICE OF PETITIONS

In re Application of :
Mark Forster et al. :
Application No. 10/784,096 : DECISION ON RENEWED PETITION
Filed: February 23, 2004 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 134/116 :
Title: CANOPY RELEASE BUCKLE :
WITH DUAL ACTION RELEASE LEVER :

This is a decision on the renewed petition filed on July 5, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The original petition under 37 C.F.R. §1.137(f) was submitted on November 9, 2005, along with the petition fee, the proper statement of unintentional delay, and a concurrently filed rescission of the previously made nonpublication request. The original petition was dismissed via the mailing of a decision on

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

June 16, 2006 for failure to provide notification of the filing of the application in a foreign country or under a multinational treaty that requires 18-month publication.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of a foreign application.

With this renewed petition, Petitioner has indicated that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on February 22, 2005.

The renewed petition under 37 C.F.R. §1.137(f) is **GRANTED**.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request accompanies this decision on petition.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment which was received on September 27, 2005 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 Shanoski
Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/784,096	02/23/2004	Mark Forster	134/116

CONFIRMATION NO. 6909

27612
AVERILL & VARN
8244 PAINTER AVE.
WHITTIER, CA 90602

Date Mailed: 08/23/2006

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 WDAB.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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

MAILED

NOV 0 8 2005

TECHNOLOGY CENTER 2100

In re Application of: KAMEDA
Application No. 10/784,111
Filed: February 20, 2004
For: DATA TRANSFER METHOD AND SYSTEM

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

This is a response to the petition filed 26 August 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

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

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

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

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

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

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

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

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

The petition filed 26 August 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The petition identifies a first feature of independent claim 1, a second feature of independent claim 6, and a third feature of independent claims 10 and 16. In the discussion of each reference it is stated that the reference "does not teach or suggest" the identified feature "*in combination* with the other limitations recited in each of the independent claims" (emphasis added). In effect, this statement indicates that the *entirety* of each of the four independent claims is not disclosed by the four references purported to be most closely related. Such a statement is not sufficient in distinguishing how each independent claim is patentable over the references. Also, the discussion of the references is not sufficiently detailed. The discussion of each reference is only a few sentences long and gives only a cursory description.

Additionally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

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

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

Pinchus M. Laufer

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

ds

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

JAN 25 2006

TECHNOLOGY CENTER 2100

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

In re Application of: KAMEDA
Application No. 10/784,111
Filed: February 20, 2004
For: DATA TRANSFER METHOD AND SYSTEM

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

This is a response to the renewed petition filed 27 December 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 26 August 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 27 December 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out in the original decision. Accordingly, the petition is **GRANTED**.

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

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

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DECHERT LLP
P.O. BOX 10004
PALO ALTO CA 94303

COPY MAILED

SEP 24 2004

OFFICE OF PETITIONS

In re Application of
Liao & Hong
Application No. 10/784,112
Filed: February 20, 2004
Attorney Docket No. 372465-01901
For: SINGLE LEVEL MIP FILTERING ALGORITHM FOR ANISOTROPIC TEXTURING

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 23, 2004 (certificate of mailing date August 17, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor , Zhou Hong, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Anthony B. Diepenbrock III establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but the inventor failed to respond to the request that he sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DECHERT LLP
P.O. BOX 10004
PALO ALTO, CA 94303

COPY MAILED

NOV 1 9 2004

OFFICE OF PETITIONS

In re Application of
Liao & Hong
Application No. 10/784,113
Filed: February 20, 2004
Attorney Docket No. 372465-01801
For: APPROXIMATION OF LEVEL OF DETAIL CALCULATION IN CUBIC MAPPING WITHOUT ATTRIBUTE DELTA FUNCTION

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 20, 2004 (certificate of mailing date August 16, 2004).

The petition is granted.

Petitioner has shown that the non-signing inventor, Zhou (Mike) Hong, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition and accompanying exhibits establish that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

Pursuant to petitioner's authorization, deposit account no. 50-2778 will be charged a $110.00 one month extension of time fee. The filing fee, surcharge, and petition fee have already been charged.

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

After this decision is mailed, the above-identified application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
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

VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/21/2010

Applicant	: Douglas J. Koslow	: DECISION ON REQUEST FOR
Patent Number	: 7617084	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/784,125	: 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 **831** 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
www.uspto.gov

VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 05/18/2010

Applicant : Douglas J. Koslow
Patent Number : 7617084
Issue Date : 11/10/2009
Application No : 10/784,125
Filed : 02/20/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **865** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 02-05

Paper No: __

COPY MAILED

FEB 09 2005

OFFICE OF PETITIONS

STEVEN R. ATKINS
10, THE BROADWALK NORTH
BRENTWOOD
ESSEX CM13 2BD
UNITED KINGDOM

In re Application of
Atkins, et al :
Application No. 10/784,137 : DECISION ON PETITION
Filing Date: 20 February, 2004
Attorney Docket No. FORRE 67592 :

Dear Steven R. Atkins:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

therein as inventor.

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

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

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

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

Counsel of Record:
FULWIDER PATTON
LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 02-05

Paper No: __

COPY MAILED
FEB 09 2005
OFFICE OF PETITIONS

FULWIDER PATTON
LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

In re Application of		
Atkins, et al	:	
Application No. 10/784,137	:	DECISION ON PETITION
Filing Date: 20 February, 2004		
Attorney Docket No. FORRE 67592	:	

This is a decision on the petition filed on 6 December, 2004, under 37 C.F.R. §1.47(a), to proceed with prosecution despite an absent/non-signing inventor.

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 20 February, 2004.

On 30 September, 2004, the Office of Initial Patent Examination (OIPE) mailed a Pre-Exam Formalities Notice requiring, *inter alia*, the filing of a fully executed oath/declaration.

In the 6 December, 2004 (and 3 February, 2005), filing (over a 30 November, 2004, certificate of mailing), Petitioner David G. Parkhurst (Reg. No. 29,422) submitted, *inter alia*, a statement of the last known address of the non-signing inventor Steven R. Atkins (Mr. Atkins), reason to believe the currency of that address, a copy of the transmittal letter by which a copy of the entire application was forwarded to Mr. Atkins for his review and his signing of the oath/declaration,

and an oath/declaration signed by co-inventor Mr. Owen on behalf of himself and the non-signing inventor Mr. Atkins.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 02-05

Paper No: __

FULWIDER PATTON
LEE & UTECHT, LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE
TENTH FLOOR
LOS ANGELES CA 90045

COPY MAILED

FEB 09 2005

OFFICE OF PETITIONS

In re Application of		
Atkins, et al	:	
Application No. 10/784,137	:	DECISION ON PETITION
Filing Date: 20 February, 2004		
Attorney Docket No. FORRE 67592	:	

This is a decision on the petition filed on 6 December, 2004, and resubmitted via FAX on 3 February, 2005, and considered under 37 C.F.R. §1.53, to obtain a filing date of 20 February, 2004, for the application.

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 20 February, 2004.

On 30 September, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (the 30 September Notice) stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

The 30 September Notice informed Petitioner of three alternative responses to the Notice: (a) to contend that the materials had been submitted, providing evidence thereof and a copy of the

materials; (b) to submit the omitted materials and accept the date of submission as the date of the application; or (c) to demonstrate that drawings were not necessary for an understanding of the subject matter claimed.

In the 6 December, 2004 (and 3 February, 2005), filing (over a 30 November, 2004, certificate of mailing), Petitioner submitted, *inter alia*, twelve (12) sheets of drawings (Figs. 1 - 19) as described in the specification along with a copy of the receipt card.

ANALYSIS

A review of the record reveals that:

- the instant application was deposited with the Office on 20 February, 2004; and
- the receipt card (see: MPEP §503[1]) is date stamped ("02/20/04") and provides, *inter alia*:

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

* * *

1. Utility Patent Application Transmittal (PTO/SB/05)
2. Specification (26 sheets)
3. Claims (5 sheets)
4. Abstract (1 sheet)
5. Drawings (12 sheets)

* * *

The record further discloses that:

- the 12 sheets of drawings submitted with the petition contain Figs 1 - 19–with the pages numbered as "1/12" through "12/12"–as described in the specification; and

- as indicated above, the receipt card date stamped by the Office acknowledges receipt of 12 sheets of drawings.

Because the return postcard receipt properly itemizes the contents of the application package in accordance with MPEP §503, the Office concludes that the 12 sheets of drawings Figs. 1 - 19 as described in the specification was submitted on 20 February, 2004, and subsequently was misplaced in the Office.

Accordingly, the petition under 37 C.F.R. §1.53 is **granted**; the petition fee is waived (and apparently was not charged); and the Notice mailed on 30 September, 2004, hereby is withdrawn as to the 12 sheet of drawings Figs. 1 - 19 as described in the specification of the application.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 20 February, 2004, for the entire application and in particular for the 12 sheets of drawings Figs. 1 - 19 as described in the specification using:

- **pages 1 - 32 (Specification, Claims, Abstract) deposited on 20 February, 2004; and**

- **the 12 sheets of drawings Figs. 1 - 19 as described in the specification deposited on 6 December, 2004;**

- **with direction to OIPE to correct Office records to reflect that 32 pages of specification (description, claims and abstract) and 12 sheets of drawings were present on filing on 20 February, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 20 February, 2004, reflecting therein that 32 pages of specification (description, claims and abstract) and 12 sheets of drawings were present on filing.**

Thereafter, the application will be considered by the examiner in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

PRO-TECHTOR INTERNATIONAL
SERVICES
20775 NORADA CT.
SARATOGA CA 95070

COPY MAILED

SEP 17 2008

OFFICE OF PETITIONS

In re Application of :
Fuhsing Tan : DECISION ON PETITION
Application No. 10/784,162 :
Filed: February 24, 2004 :
Title: Golf Bag :

This is in response to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION" filed February 28, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a response to the final Office Action mailed June 11, 2007. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply received and no extension of time obtained, the above-identified application became abandoned on September 12, 2007. A courtesy Notice of Abandonment was mailed on January 17, 2008.

In response, the instant petition was filed. Therein, practitioner Willgohs asserts that the final Office action and the Notice of Abandonment were not received by my office. Petitioner submits that the reason for non-receipt is an improperly submitted Change of Correspondence Address, filed electronically on February 24, 2007. Petitioner maintains that no supporting Change of Power of Attorney has been submitted, or authorized by Applicant.

A review of the application file reveals the following:

- On February 24, 2004, this application was filed by practitioner Kening Li, Ph.D., naming Fuhsing Tan as sole inventor. The application included a declaration executed

by sole inventor Tan, appointing the attorneys associated with Customer Number 23911 (Crowell & Moring, LLP) to prosecute this application and transact all business in the USPTO connected therewith. The application also included an application data sheet setting forth the correspondence address of record as that of Customer Number 23911. No assignee was identified in these papers.

- On June 8, 2006, Attorney-at-Law Lin-Yun Cheng on behalf of Pro-TECHTOR INTERNATIONAL SERVICES transmitted to the Office a POWER OF ATTORNEY BY INVENTOR/ASSIGNEE OF RECORD WITH REVOCATION OF PRIOR POWERS executed by sole inventor Fu-Hsing Tan. This power of attorney revoked all previous powers of attorney and appointed the practitioners associated with Customer Number 000047625 (Pro-TECHTOR International Services).

- It is noted that the transmittal filed June 8, 2006 was improperly transmitted to the extent that the transmittal was signed by attorney Cheng who does not appear to be a registered patent practitioner. Further, no 3.73(b) statement accompanied this filing authorizing attorney Cheng to act on behalf of Pro-TECHTOR. Moreover, there is no indication that an assignment to Pro-TECHTOR accompanied this filing. Further, the POWER OF ATTORNEY executed by inventor Tan set forth a Customer Number for power of attorney, but did not set forth a correspondence address.

- On June 26, 2006, the Office mailed a NOTICE REGARDING CHANGE OF ATTORNEY to the former attorneys at Customer Number 23911 (Crowell & Moring, LLP), advising them that their power of attorney had been revoked and all future correspondence will be mailed to the new address. The Office also mailed a NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY, to PRO-TECHTOR INTERNATIONAL SERVICES. This Notice advised Pro-TECHTOR that the Power of Attorney was accepted and that their address had become the correspondence address of record.

- The Office did not receive any response from Crowell & Moring, LLP to the NOTICE REGARDING CHANGE OF ATTORNEY.

- On December 29, 2006, the Office mailed a non-final Office action to the correspondence address of record (Pro-TECHTOR).

- On February 27, 2007, the Office received the electronically filed CHANGE OF CORRESPONDENCE ADDRESS signed by former practitioner of record Li as attorney of record. This paper requested that the correspondence address of record be changed to that of the law firm of Baker Donelson Bearman Caldwell & Berkowitz. No paper signed by sole inventor Tan revoking the power of attorney to Pro-TECHTOR accompanied this submission.

- On March 5, 2007, practitioner Willgohs on behalf of Pro-TECHTOR timely filed an amendment in response to the Office action mailed December 29, 2006.

- On March 6, 2007, former practitioner of record Li again electronically filed a CHANGE OF CORRESPONDENCE ADDRESS requesting that the correspondence address of record be changed to that of the law firm of Baker Donelson Bearman Caldwell & Berkowitz. Again, no paper signed by sole inventor Tan revoking the power of attorney to Pro-TECHTOR accompanied this submission. However, the address of record was changed to that of BAKER DONELSON.

- On June 11, 2007, the Office mailed a final Office action to the correspondence address of record (BAKER DONELSON).

- On January 17, 2008, the Office mailed a notice of abandonment for failure to file a response to the final Office action mailed June 11, 2007.

- On February 28, 2008, the instant petition was filed.

Petitioner's arguments have been considered and the record has been carefully reviewed. It is concluded that the presumption that the Office properly mailed the Office action mailed June 11, 2007 to the applicant at the correspondence address of record is overcome. The record supports a conclusion that the changes of correspondence address filed February 27, 2007 and March 6, 2007, were filed in error by practitioner Li and entered in error by the Office. (It is noted that it was informally confirmed with the Baker Donelson Office of

practitioner Li that the changes of address were filed in error as alleged by petitioner). More importantly, pursuant to inventor Tan's revocation of prior attorneys of record, practitioner Li was not of record and thus, the change of address filed by practitioner Li on March 6, 2007 should not have been entered. Given this error, the Office action was improperly mailed to the address of practitioner Li. Under the circumstances, withdrawal of the holding of abandonment is warranted.

In view thereof, the Notice of Abandonment mailed January 17, 2008 and holding of abandonment are hereby **WITHDRAWN**.

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

No fee is required on petition under § 1.181.

The correspondence address has been changed back to that of Customer Number 000047625, consistent with the Notice mailed June 26, 2006 and the arguments on petition. However, petitioner should be aware that the paper filed June 8, 2006 by the sole inventor was only a power of attorney and did not set forth a new correspondence address. To be effective to change both the attorneys of record and the correspondence address, a paper filed for such purpose must explicitly request both changes and be signed by a proper party. A power of attorney in of itself does not change the correspondence address. (No assignee has established the right to take action, such as changing the correspondence address, in this case. See 37 CFR 3.73(b) and MPEP 324).

Technology Center AU 3714 has been advised of this decision. The application is, thereby, forwarded for the technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response filed February 28, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

APR 14 2010

OFFICE OF PETITIONS

In re Application of :
Eiji Hasegawa et al :
Application No. 10/784,184 : ON PETITION
Filed: February 24, 2004 :
Attorney Docket No. 1083.1101

This is a decision on the petition, filed April 6, 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 March 2, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2438 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).

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
Ando, Kenji et al
Serial No.: 10/784,197
Filed: Feb. 24, 2004
Docket: 0445-0347P
Title: ABSORBENT ARTICLE AND PROCESS OF PRODUCING THE SAME

DECISION ON PETITION

This is a decision on the Petition for Suspension of Action received on Mar. 17, 2008, seeking to suspend action on the above-identified application for a period of two months. This petition is being considered pursuant to 37 CFR § 1.103(a). The petitioner has authorized a charge of the requisite petition fee to the Account No. 02-02448.

The petition is dismissed.

The record shows that:

1) On Oct. 10, 2007, the examiner issued a non-final Office action.
2) On Jan. 10, 2008, the applicant filed a response to the non-final Office action.
3) On Feb. 15, 2008, the applicant filed a supplemental amendment.
4) On Mar. 13, 2008, the applicant filed the current petition to suspension office action to provide additional time for the examiner and the applicant to study the prior art citation filed with the petition.

In the petition, petitioner alleges that the applicant has submitted an IDS with many prior art references on Mar. 17, 2008 and needs additional time to study the prior art references. Petitioner believes that the examiner also needs additional time to study the cited prior art references before an Office action can be rendered. This reason constitutes a good and sufficient cause to justify a two-month suspension of action.

The reason for a two-month suspension of action is not convincing and could not justify a two-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims

which reflect the scope to which they are entitled. Applicant has failed to outline where he/she presently stands in the study of the prior art references or to establish why, in particular, a two-month suspension of action will advance the study of the prior art references. Accordingly, applicant has failed to establish good and sufficient reasons to delay the prosecution. The application remains in active status and being returned to the examiner for immediate consideration of the amendment filed on Jan. 10, 2008 and issuance of an Office action.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3761 for preparation of an Office action in response to the amendment filed on Jan. 10, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,202	02/24/2004	Makoto Muramatsu	249226US3	9262

22850 7590 11/08/2007
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LAMB, BRENDA A

ART UNIT	PAPER NUMBER
1734	

NOTIFICATION DATE	DELIVERY MODE
11/08/2007	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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

wk

Mailed: 11-8-07

In re application of	:	
Matsui et al.	:	DECISION ON
Serial No. 10/784,202	:	PETITION
Filed: February 24, 2004	:	
For: Process Liquid Supply Nozzle, Process Liquid Supply Device And Nozzle Cleaning Method	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 for acknowledgment of an IDS files on October 15, 2007.

DECISION

A copy of the 1449 acknowledging the IDS filed February 24, 2004 is included.

Accordingly, the instant petition is **DISMISSED.**

Jacqueline M. Stone/wk

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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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

HDSL
4331 STEVENS BATTLE LANE
FAIRFAX, VA 22033

COPY MAILED

JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Pei Choa Wang :
Application No. 10/784,251 :
Filed: February 24, 2004 :
Attorney Docket No. OP93000041 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

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 1762 for further processing.

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

cc:

Kao H. Lu
686 Lawson Avenue
Havertown, PA 19083

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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

MAILED
NOV - 8 2005
Technology Center 2100

In re Application of: FUJIBAYASHI
Application No. 10/784,260
Filed: February 24, 2004
For: METHOD AND APPARATUS FOR INCREASING AN AMOUNT OF MONEY ON DEMAND WHEN MONITORING REMOTE MIRRORING PERFORMANCE

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

This is a response to the petition filed 25 August 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**. However, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

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

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

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 18 2006

OFFICE OF PETITIONS

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

In re Application of	:	
Royosuke Usui	:	
Application No. 10/784,268	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. 65933-071	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 13, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2814 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
www.uspto.gov

Paper No. _____

Date : September 18, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Ryosuke Usui
Application No. :10/784,268
Filed :February 24, 2004

The above-identified application has been assigned Patent No. 7,112,869 and an issue date of September 26, 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 September 26, 2006:

"All reference to Patent No. 7,112,869 to Ryosuke Usui of Japan for SEMICONDUCTOR DEVICE WITH SHIELD appearing in the Official Gazette of September 26, 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

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10784268

Total Records Found: 9

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
09/13/2006	00000085	1	1801	$790.00	09/12/2006	DA 500417
09/13/2006	00000086	1	1464	$130.00	09/12/2006	DA 500417
07/14/2006	00000120	1	1501	$1,400.00	07/13/2006	DA 500417
07/14/2006	00000122	1	8001	$6.00	07/13/2006	DA 500417
07/14/2006	00000121	1	1504	$300.00	07/13/2006	DA 500417
06/05/2006	00000176	1	1806	$180.00	06/02/2006	DA 500417
03/03/2006	00000141	1	1801	$790.00	03/02/2006	DA 500417
03/03/2004	00000149	1	8021	$40.00	02/24/2004	DA 500417
02/27/2004	00000053	1	1001	$770.00	02/24/2004	DA 500417

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-07

G. LINK CO., LTD
3550 BELL RD
MINOOKA IL 60447

COPY MAILED
MAR 09 2007
OFFICE OF PETITIONS

In re Application of	:	
Mao-Lin Chen	:	
Application No. 10/784281	:	
Filed: 02/24/2004	:	LETTER DISMISSING PETITION
For: ANTI-LEAKING DEVICE FOR	:	
LUBRICATION OIL IN A FAN	:	

This is a communication in response to the paper styled as a petition under 37 CFR 1.137(b),[1] filed on 29 November, 2006.

The petition is dismissed for the reasons stated below.

This application became abandoned on 22 November, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 21

---

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

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

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

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

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

August, 2006, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on 16 January, 2007.

The petition paper cannot be considered because it is not signed. Specifically, the lower half of the second page of the petition, including the signature block, was not received. As a properly completed petition form was not received, the papers filed do not constitute a proper petition.

37 CFR 1.4 requires that all papers filed in the USPTO must be signed by either a registered patent attorney or all of the inventors in an application.

It is recommended that petitioner resubmit the petition.

No additional fee is due.

A reply to this communication should be submitted within ONE (1) MONTH of the receipt of this communication.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW JA-07

G. LINK CO., LTD
3550 BELL RD
MINOOKA IL 60447

COPY MAILED

JUL 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Mao-Lin Chen	:	
Application No. 10/784281	:	
Filed: 02/24/2004	:	ON PETITION
For: ANTI-LEAKING DEVICE FOR	:	
LUBRICATION OIL IN A FAN	:	

This is a communication in response to the paper styled as a petition under 37 CFR 1.137(b),[1] filed on 14 March, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover

---

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

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

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

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

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

letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 22 November, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 21 August, 2006, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on 16 January, 2007. The petition filed on 29 November, 2006, was dismissed on 9 March, 2007.

While a complete petition has now been provided, and the issue and petition fees paid, it is noted, upon further review, that the publication fee of $300.00 required in the Notice of Allowance and Fee(s) Due has not been paid. As such, a complete reply to the Notice has not been provided.

Petitioner should submit the balance due of $300.00 for the publication fee with any renewed petition.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Oct-07

G. LINK CO., LTD
3550 BELL RD
MINOOKA IL 60447

COPY MAILED

OCT 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Mao-Lin Chen	:	
Application No. 10/784281	:	
Filed: 02/24/2004	:	ON PETITION
For: ANTI-LEAKAGE DEVICE FOR	:	
LUBRICATION OIL IN A FAN	:	

This is a decision communication in response to the paper styled as a petition under 37 CFR 1.137(b),[1] filed on 6 September, 2007.

The petition is **GRANTED**.

This application became abandoned on 22 November, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 21 August, 2006, which set a three (3)-month statutory period for

---

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

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

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

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

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

reply. Notice of Abandonment was mailed on 16 January, 2007. The petition filed on 29 November, 2006, was dismissed on 9 March, 2007. The renewed petition filed on 14 March, 2007, was dismissed 10 July, 2007.

Receipt of the publication fee filed with the present renewed petition is acknowledged. Additionally, the issue fee was paid on 29 November, 2006.

The application is referred to the Office of Patent Publication for processing into a patent.

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

DI Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FAY SHARPE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

COPY MAILED

JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Florient Jeanveau :
Application No. 10/784,286 : DECISION ON PETITION
Filed: February 24, 2004 :
Attorney Docket No. PZNZ 2 00080 :

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

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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 with the $405 filing fee and an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

The Revocation of Power of Attorney with New Power of Attorney and Change of correspondence Address filed on October 5, 2007 has been accepted and made of record. A Notice of Acceptance accompanies this decision.

The application file is being referred to Technology Center Art Unit 3765 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

Enclosure: Notice of Acceptance of Power of Attorney

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
10/784,286	02/24/2004	Florient Jeanveau	JEANVEAU

CONFIRMATION NO. 9965

27885
FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

POA ACCEPTANCE LETTER

OC000000030497596

Date Mailed: 06/16/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

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

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

JUN 13 2006

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

In re Application of	:
Luedtke et al.	:
Serial No.: 10/784,321	: SUSPENSION OF ACTION
Filed: February 23, 2004	:
Attorney Docket No.: P06273US01 - PHI 1210	:

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.

John Lebuyadex, Director 1600
FOR:

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

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

In re Application of
Luedtke, et al.
Application No. 10/784,321
Filed: February 23, 2004
Docket No.: P06273US01-PHI 1210

DECISION ON PETITION

This is a decision on the petition for withdrawal of terminal disclaimer, filed May 1, 2007. This matter is being treated under 37 CFR 1.182. The remaining petition fee due, $270.00, has been charged to petitioner's deposit account as authorized.

The petition is **GRANTED**.

Petitioner requests withdrawal of the terminal disclaimer to U.S. Pat. No. 6,232,535 on the grounds that it was inadvertently submitted. As the examiner of record has concurred with petitioner's position, the terminal disclaimer to U.S. Pat. No. 6,232,535 submitted February 6, 2007 is hereby withdrawn.

This application is being forwarded to Technology Center 1600 for correction in the PALM database and file records consistent with this decision.

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

COPY MAILED

NOV 26 2007

OFFICE OF PETITIONS

TYCO HEALTHCARE – EDWARD S. JARMOLOWICZ
15 HAMPSHIRE STREET
MANSFIELD MA 02048

In re Application of	:	
Matthew J. Perry et al	:	
Application No. 10/784,323	:	DECISION GRANTING PETITION
Filed: February 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1828K	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 September 17, 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]

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

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

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new 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.*

This application is being referred to Technology Center AU 3772 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

KURT F. JAMES
SENNIGER POWERS
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS, MISSOURI 63102

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

NOV 26 2007

OFFICE OF PETITIONS

Date : November 26, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/784,323**

Applicant(s) : Matthew J. Perry et al
Application No. : 10/784,323
Filed : February 23, 2004

The above-identified application has been assigned Patent No. 7,303,535 and an issue date of December 4, 2007.

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

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 4, 2007:

> **"All reference to Patent No. 7,303,535 to Matthew J. Perry et al of Rhode Island for COMPRESSION TREATMENT SYSTEM appearing in the Official Gazette of December 4, 2007 should be deleted since no patent was granted."**

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Brad Harris
Kim Terrell
Kay Pinkney
Betty Powell

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	: Josh Eckels	: DECISION ON REQUEST FOR
Patent Number	: 7650592	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/784,346	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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	:
Williams et al.	:
Serial No.: 10/784,355	: SUSPENSION OF ACTION
Filed: February 23, 2004	:
Attorney Docket No.: P06603US01	:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Williams et al.	:	
Application No. 10/784,355	:	DECISION ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. P06603US01	:	

This is a decision on the petition filed May 1, 2007 requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed January 31, 2007 be withdrawn. The $400 petition fee will be charged to deposit account 26-0084.

The petition is granted.

Petitioners assert that, the terminal disclaimer filed for patent 6,232,535 was filed in error. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAR - 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

HOGAN & HARTSON L.L.P.
500 SOUTH GRAND AVENUE, SUITE 1900
LOS ANGELES, CA 90071

In re Application of: Suishu, et al.
Application No. 10/784,356
Filed: February 23, 2004
For: DATA PROCESSING SYSTEM

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

This is a response to the petition filed October 12, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

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

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

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

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

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

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

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

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

2/25/05

SDL

Pet. Sec.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JUL - 1 2004

DCM

In re Application of	:	
Adria Valley Anne Nelson Ellis and Rob Nelson	:	
Serial Number: 10/784,360	:	PETITION UNDER
Filed: February 23, 2004	:	M.P.E.P.708.02 V
For: MACHINE FOR AIR FILTRATION THAT IS SELF CLEANING AND PROCESS FOR FILTERING AIR WITH SAME AS WELL AS MULTIPLE STEPS FOR ENTRAPMENT AND NEUTRALIZATION OF BACTERIA GERMS AND PARTICULATE FOR DETECTION AND RECOGNITION OF TOXIC AND NOXIOUS GASES AND RADIATION DETECTION	:	

This is in response to the petition filed February 23, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 V 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

Adria Valley Anne Nelson
102 Dogwood Dr.
Tellico Plains, TN 37385

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF JAMES J. RALABATE
5792 MAIN ST.
WILLIAMSVILLE, NY 14221

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Adams et al.	:	DECISION ON PETITION
Application No. 10/784,386	:	TO WITHDRAW
Filed: February 23, 2004	:	FROM RECORD
Attorney Docket No. X0401 (A)	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 16, 2005.

The request is **NOT APPROVED.**

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

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc:

XYBERNAUT CORPORATION
ATTN: CHRISTOPHER TUCKER, PATENT AGENT
SUITE 550, HYATT PLAZA
12701 FAIR LAKES CIRCLE
FAIRFAX, VA 22033

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 2 0 2007

OFFICE OF PETITIONS

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

In re Application of	:
Boucher et al.	:
Application No. 10/784,392	: DECISION ON PETITION
Filed: February 23, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1759.15103-CIP 2 DIV	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 20, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/827,260 now patent 6,726,691, filed April 5, 2001.

The petition is **GRANTED**.

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

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 3733 for consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tartera Donnell

Christina T. Donnell
Senior Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/784,392	02/23/2004	3733	385	1759.15103-CIP 2 DIV	12	1

CONFIRMATION NO. 8431

CORRECTED FILING RECEIPT

OC000000025913136

26308
RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE, WI 53226

Date Mailed: 09/20/2007

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

Applicant(s)

Ryan P. Boucher, San Francisco, CA;
Mark A. Reiley, Piedmont, CA;
Robert M. Scribner, Los Altos, CA;
Karen D. Talmadge, Palo Alto, CA;

Assignment For Published Patent Application

Kyphon Inc.

Power of Attorney:

Patricia Limbach--50295

Domestic Priority data as claimed by applicant

This application is a DIV of 09/595,963 06/19/2000 PAT 6,719,773
which is a CIP of 09/420,529 10/19/1999 PAT 6,607,544
which is a CIP of 09/088,459 06/01/1998 ABN
This application 10/784,392
is a CIP of 09/827,260 04/05/2001 PAT 6,726,691

Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/784,392

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Expandable structures for deployment in interior body regions

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

COPY MAILED

OCT 12 2007

OFFICE OF PETITIONS

LOCKE LORD BISSELL & LIDDELL LLP
2200 ROSS AVENUE
SUITE 2200
DALLAS, TX 75201-6776

In re Application of Muncaster and Millican :
Application No. 10/784,410 : Decision on Petition
Filing Date: February 23, 2004 :
Attorney Docket No. 72531 00001 :

This is a decision on the petition filed June 13, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application. Attorney Jack Kanz signed and filed the petition.

The petition is **dismissed.**

Facts:

An executed declaration was filed with the application on February 23, 2004. The declaration stated all correspondence should be sent to the address associated with Customer No. 20873.

A "Revocation of Power of Attorney With New Power of Attorney And Change of Correspondence" (Power of Attorney) form was filed August 12, 2005. The Power of Attorney sought to have the practitioners associated with Customer No. 41254 become the new representatives of record. The Power of Attorney sought to have the address or record changed to the address associated with Customer No. 41254.

The Power of Attorney was signed by inventor Muncaster, but not by inventor Millican. The Power of Attorney indicated Muncaster was an inventor. The paper did not indicate Muncaster was the assignee, signing on behalf of an assignee, or include a statement under 37 CFR 3.73(b).

On August 26, 2005, the Office mailed a Notice stating the August 12, 2005 paper lacked the signature of inventor Millican. The Office stated the Power of Attorney would, "be entered upon receipt of confirmation signed by said co-inventor."

A response to the August 26, 2005 Notice was filed September 2, 2005. The response did not include a Power of Attorney signed by inventor Millican.

The September 2, 2005 response stated,

> The signature of Tony Joe Millican, a co-inventor in this application, was not omitted. The Power of Attorney was signed by the Assignee.

The September 2, 2005 response did not include a statement under 37 CFR 3.37(b) to establish inventor Muncaster was the assignee.

The Power of Attorney was not entered. The Office did not mail any form of notice stating the Power of Attorney had been entered.

The only correspondence address of record was the address associated with Customer Number 20873. Therefore, when the Office later received status inquiries, the Office properly responded by sending correspondence to the address of record.

On May 22, 2006, the Office mailed a non-final Office action including a requirement for restriction/election to the address of record (Customer No. 20873).

By unknown means, Attorney Jack Kanz, who filed the instant petition, obtained a copy of the non-final Office action. Attorney Kanz filed a reply and a request for an extension of time on July 31, 2006.

On September 22, 2006, the Office mailed a non-final Office action to the address of record (Customer No. 20873). The Office action set a shortened statutory period for reply of three (3) months.

The Office did not receive a response to the September 22, 2006 Office action, or receive a request for an extension of time. As a result, the above-identified application became abandoned on December 23, 2006.

During a telephone conversation with the examiner on June 4, 2007, Attorney Jack Kanz learned the application had become abandoned.

The instant petition was filed on June 13, 2007.

Discussion:

In order for the petition to withdraw the holding of abandonment to be granted, petitioner must prove the Office mailed the Notice to an incorrect address or the correspondence was not received at the address of record.

Petitioner has not demonstrated the Office mailed the September 22, 2006 Office action to an incorrect address. Compliance with 37 CFR 3.73(b) required more than a statement that Muncaster was the assignee. The September 2, 2005 paper was not accompanied by any proof Mullican had assigned his entire ownership interest to Muncaster.

Petitioner has not proven, it is more likely than not, the non-final Office action was lost by the USPS and never delivered to the address of record. Although petitioner has supplied evidence to prove the non-final Office action was not received at the address associated with Customer No. 41254, petitioner has failed to supply any showing to establish the non-final Office action was never received at the address of record.

For the reasons above, the Office will not withdraw the holding of abandonment.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply to the outstanding Office action, the required petition fee ($750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a blank petition form is enclosed for petitioner's convenience.

While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Any request for reconsideration under 37 CFR 1.181 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."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Jack Kanz
502 So. Cottonwood Drive
Richardson, TX 75080

Attachments: Copy of non-final Office action and other papers mailed September 22, 2006
Form PTO/SB/64 (Petition under 37 CFR 1.137(b))
Form PTO/SB/82 (Revocation/Power of Atty/Change of Address form)
Form PTO/SB/96 (Statement under 37 CFR 3.73(b))
Privacy Act Notice

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.
10/784,410	02/23/2004	John W. Muncaster	72531 00001	1795

20873 7590 09/22/2006

LOCKE LIDDELL & SAPP LLP
ATTN: STACIE COX
2200 ROSS AVENUE
SUITE 2200
DALLAS, TX 75201-6776

EXAMINER
NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
1772	

DATE MAILED: 09/22/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/784,410	MUNCASTER ET AL.	
	Examiner	Art Unit	
	Patricia L. Nordmeyer	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 July 2006*.

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) *1-84* is/are pending in the application.

4a) Of the above claim(s) *44-84* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-43* 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 *23 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 2/04, 6/04 .

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 1 - 43 in the reply filed on July 31, 2006 is acknowledged.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on February 23, 2004 and June 14, 2004 is being considered by the examiner.

Claim Rejections - 35 USC § 102

3. 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 –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 – 7, 25 – 31 and 41 – 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Tajima et al. (USPN 3,937,640).

Tajima et al. disclose a layered composite waterproofing membrane (Column 15, lines 31 – 33) comprising a layer of rubberized asphalt having first and second sides (Figure 1C, #20; Column 6, lines 6 – 8) with a flexible layer of durable plastic film continuously bonded to the first side (Figure 1C, #14; Column 6, line 63 to Column 7, line 11) and a layer of geotextile

continuously bonded to the second side (Figure 1C, #6; Column 5, lines 39 – 49) as in claim 1. The rubberized asphalt is rubber-modified bitumen (Column 6, lines 5 – 8) comprising from about 5 to about 20 or 10 to about 15 percent rubber (Column 6, lines 31 – 45) as in claims 2 – 4. As in claims 5 – 7, the rubberized asphalt is modified with a block copolymer chosen from styrene-butadiene-styrene block copolymer (Column 6, line 15) or styrene-isoprene-styrene block copolymer (Column 6, line 17). Tajima et al. also disclose a layered composite waterproofing membrane (Column 15, lines 31 – 33) having an overall thickness (Figure 1C) and comprising a layer of rubberized asphalt having first and second sides (Figure 1C, #20; Column 6, lines 6 – 8) with a flexible layer of durable plastic film continuously bonded to the first side (Figure 1C, #6; Column 5, lines 56 – 58) and a release liner releasably attached to the second side (Figure 1C, #14; Column 6, line 63 to Column 7, line 11), the plastic film layer having a thickness comprising about ¼ to about 1/3 of the overall thickness of the membrane (Figure 1C, #6) as in claim 25. The rubberized asphalt is rubber-modified bitumen (Column 6, lines 5 – 8) comprising from about 5 to about 20 or 10 to about 15 percent rubber (Column 6, lines 31 – 45) as in claims 26 - 28. As in claims 29 - 31, the rubberized asphalt is modified with a block copolymer chosen from styrene-butadiene-styrene block copolymer (Column 6, line 15) or styrene-isoprene-styrene block copolymer (Column 6, line 17). With regard to claims 41 - 43, the release liner comprises a polymeric film (Column 7, line 3), a paper (Column 7, line 4) or is precoated with a release agent (Column 7, lines 5 – 12).

5. Claims 1 – 4, 8 – 12, 23 – 28, 33 and 39 – 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Stierli (USPN 4,442,148).

Stierli discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a layer of geotextile continuously bonded to the second side (Column 3, lines 42 – 45) as in claim 1. The rubberized asphalt is rubber-modified bitumen comprising from about 5 to about 20 or 10 to about 15 percent rubber (Column 3, lines 9 – 15) as in claims 2 – 4. As in claims 8 and 9, the plastic film has a thickness ranging from about 1 mil up to a thickness where the layer ceases to be flexible (Column 3, lines 58 – 61), and the plastic is cross-laminated to resist punctures (Column 3, line 66 to Column 4, line 1). With regard to claims 10 and 11, the plastic film layer has a thickness ranging from about 10 to about 25 mils or about 20 mils (Column 3, lines 58 – 61). The plastic film layer comprises polyethylene (Column 3, line 67) as in claim 12. Regarding claims 23 and 24, the membrane has an overall thickness ranging from about 30 to about 150 mils or about 65 to about 95 mils (Column 3, lines 35 – 38; Column 3, lines 58 – 61). Stierli also discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) having an overall thickness and comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a release liner releasably attached to the second side (Column 4, lines 28 – 33; Figure 1, #4), the plastic film layer having a thickness comprising about ¼ to about 1/3 of the overall thickness of the membrane (Column 3, lines 58 – 61) as in claim 25. The rubberized asphalt is rubber-modified bitumen comprising from about 5 to about 20 or 10 to about 15 percent rubber (Column 3, lines 9 – 15) as in claims 26 – 28. The plastic film layer

comprises polyethylene (Column 3, line 67) as in claim 34. Regarding claims 39 and 40, the membrane has an overall thickness ranging from about 30 to about 150 mils or about 65 to about 95 mils (Column 3, lines 35 – 38; Column 3, lines 58 – 61). With regard to claims 41 - 43, the release liner comprises a polymeric film, a paper or is precoated with a release agent (Column 4, lines 28 – 33; Figure 1, #4).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 13 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stierli (USPN 4,442,148) in view of Draper et al. (USPN 3,474,625).

Stierli discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a layer of geotextile continuously bonded to the second side (Column 3, lines 42 – 45). Stierli also discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) having an overall thickness and comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 –

57; Figure 1, #3) and a release liner releasably attached to the second side (Column 4, lines 28 – 33; Figure 1, #4), the plastic film layer having a thickness comprising about ¼ to about 1/3 of the overall thickness of the membrane (Column 3, lines 58 – 61). However, Stierli fails to disclose the plastic film layer comprising polypropylene.

Draper et al. teach a laminate of asphaltic material and a film of a polypropylene (Column 6, lines 42 – 43) for the purpose of preventing reflection cracking of a surface that is being used to repair a surface or roadway (Column 2, lines 60 – 63).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the polypropylene film material in Stierli in order to prevent reflection cracking of a surface that is being used to repair a surface or roadway as taught by Draper et al.

8. Claims 14 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stierli (USPN 4,442,148) in view of Clapperton (USPN 4,386,981).

Stierli discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a layer of geotextile continuously bonded to the second side (Column 3, lines 42 – 45). Stierli also discloses a layered composite waterproofing

membrane (Column 1, lines 5 – 7) having an overall thickness and comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a release liner releasably attached to the second side (Column 4, lines 28 – 33; Figure 1, #4), the plastic film layer having a thickness comprising about ¼ to about 1/3 of the overall thickness of the membrane (Column 3, lines 58 – 61). However, Stierli fails to disclose the plastic film layer comprising high-density polyethylene.

Clapperton teaches a laminate of asphaltic material and a film high-density polyethylene (Column 5, lines 1 – 17) for the purpose of preventing moisture vapor transmission through the laminate (Column 2, lines 60 – 63).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the polypropylene film material in Stierli in order to prevent moisture vapor transmission through the laminate as taught by Clapperton.

9. Claims 15 – 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stierli (USPN 4,442,148) in view of Dempsey et al. (USPN 5,513,925).

Stierli discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side

(Column 2, lines 55 – 57; Figure 1, #3) and a layer of geotextile continuously bonded to the second side (Column 3, lines 42 – 45). Stierli also discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) having an overall thickness and comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a release liner releasably attached to the second side (Column 4, lines 28 – 33; Figure 1, #4), the plastic film layer having a thickness comprising about ¼ to about 1/3 of the overall thickness of the membrane (Column 3, lines 58 – 61). However, Stierli fails to disclose the geotextile being non-woven, made of fibers comprising olefinic polymers, poly-alpha olefins and polyesters or polypropylene.

Dempsey teaches a geotextile being non-woven (Column 6, lines 34 – 35), made of fibers comprising olefinic polymers, poly-alpha olefins and polyesters or polypropylene (Column 3, lines 1 – 16) for the purpose of having a material that allows horizontal movement in an underlying surface to which it is attached without breaking the bond with the underlying pavement (Column 2, lines 58 – 61).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the geotextile being non-woven, made of fibers comprising olefinic polymers, poly-alpha olefins and polyesters or polypropylene in Stierli in order to have a material that allows horizontal movement in an underlying surface to which it is attached without breaking the bond with the underlying pavement as taught by Dempsey.

10. Claims 20 – 22 and 36 – 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stierli (USPN 4,442,148) in view of Bohnhoff (USPN 5,250,340).

Stierli discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a layer of geotextile continuously bonded to the second side (Column 3, lines 42 – 45). Stierli also discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) having an overall thickness and comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a release liner releasably attached to the second side (Column 4, lines 28 – 33; Figure 1, #4), the plastic film layer having a thickness comprising about ¼ to about 1/3 of the overall thickness of the membrane (Column 3, lines 58 – 61). However, Stierli fails to disclose a drainage mat attached to the high-density polyethylene layer by bonding through adhesive.

Bohnhoff teaches a drainage mat (Figure 7) attached to the high-density polyethylene layer (Column 1, lines 57 – 60) by bonding through adhesive (Column 4, lines 51 – 55) for the purpose of providing a stabilized surface for vehicular or pedestrian traffic (Column 4, lines 63 – 66).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the drainage mat attached to the high density polyethylene layer by bonding through adhesive in Stierli in order to provide a stabilized surface for vehicular or pedestrian traffic as taught by Bohnhoff.

11. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stierli (USPN 4,442,148) in view of Terry et al. (USPN 5,763,036).

Stierli discloses a layered composite waterproofing membrane (Column 1, lines 5 – 7) having an overall thickness and comprising a layer of rubberized asphalt having first and second sides (Figure 1, #1; Column 2, lines 51 – 55) with a flexible layer of durable plastic film continuously bonded to the first side (Column 2, lines 55 – 57; Figure 1, #3) and a release liner releasably attached to the second side (Column 4, lines 28 – 33; Figure 1, #4), the plastic film layer having a thickness comprising about ¼ to about 1/3 of the overall thickness of the membrane (Column 3, lines 58 – 61). However, Stierli fails to disclose a release liner with a thickness ranging up to about 4 mils.

Terry et al. teach a release liner with a thickness ranging up to about 4 mils (Column 4, lines 47 – 47) as part of moisture barrier (Column 8, lines 36 – 37) for the purpose of protecting the tacky surface of the bitumen prior to use (Column 4, lines 55 – 58).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the release liner with a thickness ranging up to about 4 mils in Stierli in order to protect the tacky surface of the bitumen prior to use as taught by Terry et al.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,143,766 to Wenz et al. is cited to show the state of the art with regard to the use of a bituminous sealing web using a non-woven material in combination with a thermoplastic polymer layer.

U.S. Patent No. 5,132,183 to Gaidis et al. is cited to show the state of the art with regard to the use of a waterproof laminate using SBR or SBS in combination with an asphalt.

U.S. Patent No. 5,096,759 to Simpson et al. is cited to show the state of the art with regard to the use of a bituminous sealing web in combination with a thermoplastic polymer layer and a release paper.

U.S. Patent No. 4,684,288 to Chapa is cited to show the state of the art with regard to the use of a pavement tile, which uses a thermoplastic polymer layer in combination with a asphalt aggregate material.

U.S. Patent No. 4,775,567 to Harkness is cited to show the state of the art with regard to the use of a bituminous sealing web in combination with a thermoplastic polymer layer and a release paper

U.S. Patent Application Publication 2001/0002497 to Scuero is cited to show the state of the art with regard to the use of geocomposites in road and bridge construction.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patricia L. Nordmeyer
Examiner
Art Unit 1772

pln

IDS - 02/23/2004

PTO/SB/08a (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 1

Complete if Known	
Application Number	10/784,410
Filing Date	February 23, 2004
First Named Inventor	John W. Muncaster
Art Unit	1772
Examiner Name	P. Nordmeyer
Attorney Docket Number	72531 00001

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
PN	1	US- 5,389,166	02/14/1995	White	
PN	2	US- 6,518,330 B2	02/11/2003	White et al.	
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3]-Number[4]-Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T[6]

Examiner Signature	/Patricia Nordmeyer/	Date Considered	09/13/2006

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. [1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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

OIPE JC69
JUN 14 2004
PATENT & TRADEMARK OFFICE

PTO/SB/08A (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

Substitute for form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 3

Complete if Known	
Application Number	10/784410
Filing Date	02/23/2004
First Named Inventor	Muncaster, John W.
Art Unit	~~3607~~ 1772
Examiner Name	P. Nordmeyer
Attorney Docket Number	72531/00001

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
~~US~~		~~5,389,166~~	~~02/14/1995~~	~~White~~	
~~US~~		~~6,518,330~~	~~02/11/2003~~	~~White~~	
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			
		US-			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T[6]

Examiner Signature	/Patricia Nordmeyer/	Date Considered	09/13/2006

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. [1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

OIPE JC59
JUN 14 2004
PATENT & TRADEMARK OFFICE

PTO/SB/08B (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

Substitute for form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 2 of 3

Complete if Known	
Application Number	10/784410
Filing Date	02/23/2004
First Named Inventor	Muncaster, John W.
Art Unit	~~3697~~ 1772
Examiner Name	P. Nordmeyer
Attorney Docket Number	72531/00001

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T[2]
PN		GRACE CONSTRUCTION PRODUCTS, Structural Waterproofing - Detail Drawings, 10/30/2003, at: www.na.graceconstruction.com/template.cfm?page=/waterproofing/dd_bit201.html.	
		GRACE CONSTRUCTION PRODUCTS, Structural Waterproofing - Detail Drawings, 10/30/2003, at: www.na.graceconstruction.com/template.cfm?page=/waterproofing/dd_bit202.html	
		GRACE CONSTRUCTION PRODUCTS, Structural Waterproofing - Detail Drawings, 10/30/2003, at: www.na.graceconstruction.com/template.cfm?page=/waterproofing/dd_pre209.html	
		CONSTRUCTION SPECIFICATIONS INSTITUTE, SpecData 2000, Grace Construction Products PrePrufe Waterproofing Systems, Section 07130, circa 2000, USA	
		PARBURY TECHNOLOGIES, Waterproofing Products Products Index, 10/28/2003, at: www.partech.com.au/wprofdes.htm	
		MARKHAM CULVERTS LTD., Geotextiles, 10/28/2003, at: www.markham.com.pg/Culverts/geotex.htm.	
		GEOSYNTHETICS, INC., Geomembranes, 10/28/2003, at: www.geo-synthetics.com/geomembranes.htm.	
		ADVANCED DRAINAGE SYSTEMS, INC., Geosynthetic Products, circa 1998, USA.	
		PARCHEM CONSTRUCTION PRODUCTS PTY, LTD., Index Preformed Membranes, Argo P, circa 2001, USA.	
PN		PARCHEM CONSTRUCTION PRODUCTS PTY, LTD., Index Preformed Membranes, Elastocene, circa 1999, USA.	

Examiner Signature	/Patricia Nordmeyer/	Date Considered	09/13/2006

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1] Applicant's unique citation designation number (optional). [2] Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.98. 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 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

OIPE JC59 JUN 14 2004 PATENT & TRADEMARK OFFICE

PTO/SB/08B (08-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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

Substitute for form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 3 of 3

	Complete if Known
Application Number	10/784410
Filing Date	02/23/2004
First Named Inventor	Muncaster, John W.
Art Unit	~~3637~~ 1772
Examiner Name	P. Nordmeyer
Attorney Docket Number	72531/00001

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T[2]
PN		PARCHEM CONSTRUCTION PRODUCTS PTY, LTD., Index Preformed Membranes, Fidia, circa 1999, USA.	
		PARCHEM CONSTRUCTION PRODUCTS PTY, LTD., Index Preformed Membranes, Testudo, circa 2002, USA.	
		NUPLEX BUILDING PRODUCTS, Bituthene, 10/28/2003, at: www.nuplexbuilding.co.nz/bituthbr.htm.	
PN		POLYGUARD PRODUCTS, INC., PolyGuard Drainage Mats, 07/19/2000, USA.	

Examiner Signature	/Patricia Nordmeyer/	Date Considered	09/13/2006

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.98. 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 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Notice of References Cited	Application/Control No. 10/784,410	Applicant(s)/Patent Under Reexamination MUNCASTER ET AL.	
	Examiner Patricia L. Nordmeyer	Art Unit 1772	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-3,474,625	10-1969	BENNETT RICHARD J; et. al.	405/270
*	B	US-3,937,640	02-1976	Tajima et al.	156/71
*	C	US-4,386,981	06-1983	Clapperton, Allan S.	156/71
*	D	US-4,442,148	04-1984	Stierli, Robert F.	428/40.3
*	E	US-4,684,288	08-1987	Chapa, Xavier	404/35
*	F	US-4,775,567	10-1988	Harkness, Alex W.	428/40.3
*	G	US-5,096,759	03-1992	Simpson et al.	428/40.3
*	H	US-5,132,183	07-1992	Gaidis et al.	428/489
*	I	US-5,143,766	09-1992	Wenz et al.	428/40.3
*	J	US-5,250,340	10-1993	Bohnhoff, William W.	428/99
*	K	US-5,513,925	05-1996	Dempsey et al.	404/17
*	L	US-5,763,036	06-1998	Terry et al.	428/40.1
*	M	US-2001/0002497	06-2001	SCUERO, ALBERTO M.	14/73

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

PTO/SB/64 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

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

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

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

PTO/SB/82 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☐ I hereby appoint the practitioners associated with the Customer Number: ☐

☐ Please change the correspondence address for the above-identified application to:

☐ The address associated with Customer Number: ☐

OR

☐ Firm *or* Individual Name			
Address			
City		State	Zip
Country			
Telephone		Email	

I am the:

☐ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Signature			
Name			
Date		Telephone	

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/96 (10-07)
Approved for use through 10/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____	_____
Signature	Date
_____	_____
Printed or Typed Name	Telephone Number
_____	
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

APR 23 2008

OFFICE OF PETITIONS

Jack Kanz
502 So. Cottonwood Drive
Richardson, TX 75080

In re Application of Muncaster and Millican :
Application No. 10/784,410 :
Filing Date: February 23, 2004 :
Attorney Docket No. 5825.36/P :

Decision on Petition

This is a decision on the petition filed October 22, 2007, to revive the above-identified application.

The petition is **granted**.

On September 22, 2006, the Office mailed a non-final Office action. The Office action set a shortened statutory period for reply of three (3) months. The Office did not receive a response to the September 22, 2006 Office action, or receive a request for an extension of time. As a result, the above-identified application became abandoned on December 23, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $770. Petitioner has submitted a reply to the non-final Office action in the form of an amendment filed with the instant petition. 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.

Technology Center Art Unit 1794 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

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
BYRUM, Randal T. :
Application No. 10/784,415 : DECISION ON PETITION
Filed: February 20, 2004 :
Attorney Docket No. END-5265NP :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 22, 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 February 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 an amendment; (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.

The application file is being forwarded to Technology Center Art Unit 3738 for consideration of the amendment filed September 29, 2006.

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

ROBERT K. TENDLER
65 ATLANTIC AVENUE
BOSTON MA 02110

COPY MAILED
JUL 16 2008

In re Application of	:	
Patrick Y. DELEFEVRE	:	
Application No. 10/784,420	:	DECISION ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. NOBS-102	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 29, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and publication fee of $300.00; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

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
www.uspto.gov

COPY MAILED
JUL 1 0 2006
OFFICE OF PETITIONS

MICHAEL I. KROLL
171 STILLWELL LANE
SYOSSET NY 11791

In re Application of
Jan Friedmann
Application No. 10/784,427
Filed: February 23, 2004
Attorney Docket No. JF-1-AM

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed May 8, 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 June 28, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 19, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to the Publication Division for further processing.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/784,427	02/23/2004	Jan Friedmann	JF-1-AM

CONFIRMATION NO. 2554

Michael I. Kroll
171 Stillwell Lane
Syosset, NY 11791

Date Mailed: 07/10/2006

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 10/19/2006.

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".

United States
Patent And
Trademark Office

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

PETITION DECISION

08/16/04

James C. Edwards
Alston & Bird LLP
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/784450 received on 07/30/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSS PRODUCTS DIVISION
ABBOTT LABORATORIES
625 CLEVELAND AVENUE
COLUMBUS, OH 43215

COPY MAILED

SEP 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Bonnie Chandler Abbruzzese et al	:	
Application No. 10/784,451	:	ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 5863.US.C3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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 extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 18, 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 1625 for further processing.

Irvin Dingle
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,459	02/23/2004	Alan Charles Webb	626220510021	8229

7590 04/29/2008

H. Duane Switzer, Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114-1190

EXAMINER
JOYCE, WILLIAM C

ART UNIT	PAPER NUMBER
3682	

MAIL DATE	DELIVERY MODE
04/29/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

APR 28 2008

TECHNOLOGY CENTER 3600

H. DUANE SWITZER, JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND, OH 44114-1190

In re Application of
Webb et al.

ON PETITION TO bring case to Board of Patent Appeals and Interferences
UNDER 37 CFR 1.181

Appl. No. 10/784,459
Filed: February 23, 2004
For: COMPONENT ASSEMBLY WITH FORMED SPINDLE END PORTION

This is a decision on Applicants' Petition under 37 CFR 1.181, filed on September 5, 2006, to have the examiner withdraw his denial of applicants' right to appeal. The delay in treating this petition is sincerely regretted.

The Petition is **DISMISSED as MOOT** in view of the fact that the issues raised in the above petition have been resolved as indicated in footnote 1, of the October 16, 2006 Examiner's Answer.

The appeal has been forwarded to the Board of Patent Appeals and Interferences for a decision. A Reply Brief was noted on April 12, 2007, and the case has been returned to the Board of Patent Appeals and Interferences.

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

Kathy Matecki

Kathy Matecki
Director TC 3600
Technology Center 3600
572-272-6951

Rr/snm: 4/24/08

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 7, 2007

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction for Appl. No. 10/784476 patent no. 7097823

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

MICHAEL E. HARTLEY
SUPERVISORY PATENT EXAMINER

1618
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK, NY 10103-3198

Mail Date: 04/21/2010

Applicant	: Stefan Hein	: DECISION ON REQUEST FOR
Patent Number	: 7594970	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/784,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **186** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-06

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

COPY MAILED

DEC 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Bulman et al.	:	DECISION ON PETITION
Application No. 10/784,482	:	TO WITHDRAW HOLDING OF
Filed: 19 February, 2004	:	ABANDONMENT
Atty. Dckt. No. 004906-018500US	:	

This is a decision on the petition, filed on 12 October, 2006, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the Office action requiring restriction and/or election mailed on 13 December, 2005. A Notice of Abandonment was mailed on 26 September, 2006.

Petitioners assert that a proper response was in fact timely filed in the form of an election, on 9 January, 2006. In support, petitioner has supplied a copy of the response including the election, bearing a certificate of mailing dated 9 January, 2006, signed by counsel's employee Mary Green.

Petitioners have also provided a statement by Ms. Green attesting to the fact that she mailed the envelope containing the response to the restriction requirement on 9 January, 2006.

As petitioner has provided convincing evidence that a proper and timely reply to the Office action mailed on 13 December, 2005, was timely filed on 9 January, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is <u>withdrawn</u>, and the Notice of Abandonment is <u>vacated</u>.

The application will be referred to Technology Center Art Unit 3643 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/784497	02/23/04	LU. JIANG	LU- AZLEIN

Attn: Sam Azlein
Soft A Corporation
Suite 135
3879 E. 120th Ave.
Thornton CO 80233

EXAMINER	
HWU, DAVIS	
ART UNIT	PAPER NUMBER
3752	

DATE MAILED:

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** 9-18-07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

FOR Manager, Publications Division
Office of Patent Publication
571-272-4200

fax

Subject: *Abandoned Application 10/784,497*
cc:
Date: September 18, 2007

To: *Darlene Lyon*
Phone Number: *(571) 272-4200*
Fax Number: *(571) 270-9805*

From: *Sam Azlein*
Phone Number: *(303) 588-5643*
Fax Number: *(626) 608-2785*

Comments:

Dear Ms. Lyon,

After our conversation of 9/17/07, I contacted the Petition Branch, as you suggested and received instruction on documenting my case. Enclosed via fax is the package I am also mailing. I feel better knowing that you have a copy of everything and will help push it through. Your assistance is much appreciated.

Sincerely,

Sam Azlein

USPTO 5/14/2007 1:12:18 PM PAGE 1/001 Fax Server

TO:Auto-reply fax to 6266082785 COMPANY:

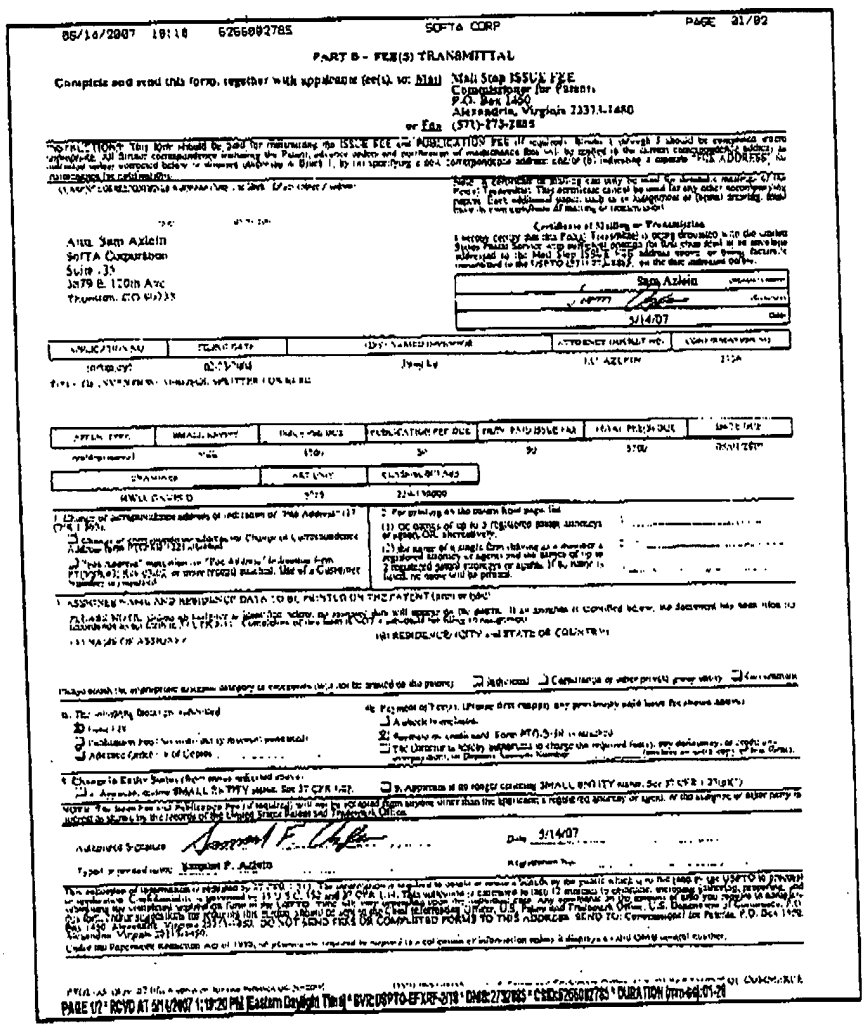
Auto-Reply Facsimile Transmission

TO: Fax Sender at 6266082785

Fax Information
Date Received: 5/14/2007 1:10:20 PM [Eastern Daylight Time]
Total Pages: 2 (including cover page)

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

Received Cover Page
=======>



05/14/2007 10:18 6266082785 SOFTA CORP PAGE 01/02

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

Aiun Sam Azlein
SOFTA Corporation
Suite 35
3879 E. 120th Ave
Thornton, CO 80233

Certificate of Mailing or Transmission

Sam Azlein
5/14/07

PAGE 1/2 * RCVD AT 5/14/2007 1:10:20 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/18 * DNIS:2732885 * CSID:6266082785 * DURATION (mm-ss):01-20

Sam Azlein
SofTA Corporation
3879 E. 120th Ave.
Suite 135
Thornton, CO 80233

September 18, 2007

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

Dear Commissioner,

This request is being filed under 37 CFR 1.181, "Withdraw Holding from Abandonment"

Our application, 10/784,497 was declared abandoned by the Patent Office, for failure to pay the issue fee. However, fax records and financial records both indicate payment within the allotted time. The issue fee was paid by debit card via the fax system, and copies of these records are enclosed.

In view of our documented timely payment, it is hoped that the Patent Office will correct the error and issue the allowed application as soon as possible.

If there are any remaining questions, please feel free to contact me. I may be reached at either (303) 465-1106, or on cell at (303) 588-5643. Thank you in advance for your help.

Sincerely,

Sam Azlein Jiang Lu

WELLS FARGO

Softa Corporation

Account Number: 207686 863-5293288
Statement End Date: 05/31/07

Withdrawals and Debits

Posted Date	Transaction Detail	Amount
May 15	Wire Trans Svc Charge - Sequence: 070515010561 Srf# 070515MS85742400 Trn#070515010561 Rfb# 070515MS85742400	- 7.50
May 15	Check Crd Purchase 05/14 Hamamatsu Bridgewater Nj 491988XXXXXX4125 135740007779895 ?MCC=7395 102000076DA	- 1,668.88
May 16	Check Crd Purchase 05/14 Us Patent/Trademark Of 571-2726500 VA 491988XXXXXX3929 136740006288777 ?MCC=9399 102000076DA	- 700.00
May 16	Check Crd Purchase 05/15 Cingular Qd Mtn Time Z 800-331-0500 Ga 491988XXXXXX3929 136740010736902 ?MCC=4814 102000076DA	- 409.38
May 16	Check Crd Purchase 05/14 McMaster-Carr 630-8349600 Il 491988XXXXXX3929 136740006907682 ?MCC=5085 102000076DA	- 128.28
May 16	Check Crd Purchase 05/15 Parker Store Ft Co Ft Collins Co 491988XXXXXX3304 136740008600411 ?MCC=5399 102000076DA	- 100.49
May 16	Check Crd Purchase 05/15 King Soopers #0689 Q72 Broomfield Co 491988XXXXXX3929 136740008555670 ?MCC=5542 102000076DA	- 27.71
May 16	Check Crd Purchase 05/15 USPS 0723550238 Broomfield Co 491988XXXXXX4125 136740009286228 ?MCC=9402 102000076DA	- 1.94
May 17	Check Crd Purchase 05/16 Uline *ship Supplies 800-295-5510 Il 491988XXXXXX4125 137740004143440 ?MCC=5964 102000076DA	- 50.49
May 17	Check Crd Purchase 05/16 Fedex Shp 05/09/07 Ab# 799-637400411 Tn 491988XXXXXX3304 137740007591983 ?MCC=4215 102000076DA	- 46.07
May 17	Check Crd Purchase 05/15 Sears Roebuck 1831 Thornton Co 491988XXXXXX3929 137740004320465 ?MCC=5311 102000076DA	- 6.49
May 18	Check Crd Purchase 05/16 Office Depot #2159 Broomfield Co 491988XXXXXX4125 138740005176309 ?MCC=5943 102000076DA	- 65.04
May 18	Check Crd Purchase 05/16 Airgas Intermountain 303-370-7800 Co 491988XXXXXX3929 138740010109290 ?MCC=5169 102000076DA	- 63.34
May 18	Check Crd Purchase 05/16 Office Depot #2159 Broomfield Co 491988XXXXXX4125 138740005176311 ?MCC=5943 102000076DA	- 32.52
May 18	Check Crd Purchase 05/16 McMaster-Carr 630-8349600 Il 491988XXXXXX3929 138740006562254 ?MCC=5085 102000076DA	- 21.28
May 18	Check Crd Purchase 05/17 USPS 0723550238 Broomfield Co 491988XXXXXX3304 138740009176356 ?MCC=9402 102000076DA	- 5.81
May 21	Check Crd Purchase 05/17 Travelocity Total Trip 800-256-9089 Tx 491988XXXXXX3929 140740013747992 ?MCC=4722 102000076DA	- 665.64
May 21	Check Crd Purchase 05/18 Sensor Scientific Inc 2012277790 Nj 491988XXXXXX4125 140740017505519 ?MCC=5969 102000076DA	- 270.75
May 21	Check Crd Purchase 05/11 Sensor Scientific Inc 2012277790 Nj 491988XXXXXX4125 140740017505518 ?MCC=5969 102000076DA	- 260.25
May 21	Check Crd Purchase 05/18 Edm*edmund Optics 609-573-6260 Nj 491988XXXXXX4125 140740018602126 ?MCC=5964 102000076DA	- 230.05
May 21	Check Crd Purchase 05/18 Micro Mark 800-225-1066 Nj 491988XXXXXX3929 140740017385966 ?MCC=5964 102000076DA	- 54.75
May 21	Check Crd Purchase 05/18 Checker #113100011312 Broomfield Co 491988XXXXXX3929 140740007166091 ?MCC=5533 102000076DA	- 17.91
May 21	Check Crd Purchase 05/17 Office Depot #2159 Broomfield Co 491988XXXXXX4125 140740015073210 ?MCC=5943 102000076DA	- 8.68
May 22	Check Crd Purchase 05/20 Jack Astor'S Cary Llc Cary Nc 491988XXXXXX3929 142740010586786 ?MCC=5812 102000076DA	- 55.73
May 23	Check Crd Purchase 05/22 Kaiser Permanente Colo 817-2554221 Tx 491988XXXXXX4125 143740006726513 ?MCC=6300 102000076DA	- 449.61
May 23	Check Crd Purchase 05/21 Akai Hana Japanese Res Carrboro Nc 491988XXXXXX3929 143740005888474 ?MCC=5812 102000076DA	- 42.07
May 23	Check Crd Purchase 05/22 King Soopers #0701 Q72 Thorton Co 491988XXXXXX3929 143740008689318 ?MCC=5542 102000076DA	- 27.21
May 23	Check Crd Purchase 05/22 Dia Parking Denver Co 491988XXXXXX3929 143740006432904 ?MCC=7523 102000076DA	- 18.00
May 23	Check Crd Purchase 05/21 Alamo Rent-A-Car Raleigh Nc 491988XXXXXX3929 143740005080909 ?MCC=3387 102000076DA	- 15.11
May 23	Check Crd Purchase 05/21 Exxonmobil 45636073 Chapel Hill Nc 491988XXXXXX3929 143740004062194 ?MCC=5542 102000076DA	- 9.92
May 24	Check Crd Purchase 05/22 Te Technology Inc 231-929-3966 Mi 491988XXXXXX4125 144740005295789 ?MCC=5964 102000076DA	- 701.30
May 29	Check Crd Purchase 05/26 Elemental Scientific, 402-991-7800 Ne 491988XXXXXX3929 148740011494172 ?MCC=5065 102000076DA	- 3,230.00

Continued on next page

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

BAKER & McKENZIE
805 Third Avenue
29th Floor
New York, NY 10022

MAILED

MAR 21 2005

Technology Center 2100

In re Application of:
Dmitry GREBENEV
Application No.: 10/784,498
Filed: February 23, 2004
For: KERNEL-LEVEL METHOD OF FLAGGING PROBLEMS IN APPLICATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request to Withdraw from Representation filed November 23, 2004.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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

cc: Richard F. Jaworski, Esq.
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, NY 10036

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.
10/784,498	02/23/2004	Dmitry Grebenev	063170.6658	2208

5073 7590 09/17/2009
BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER
MEHRMANESH, ELMIRA

ART UNIT	PAPER NUMBER
2113	

NOTIFICATION DATE	DELIVERY MODE
09/17/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
glenda.orrantia@bakerbotts.com

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

SEP 16 2009

TECHNOLOGY CENTER 2100

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

In re Application of: Dmitry GREBENEV Application No. 10/784,498 Attorney Docket No. 063170.6658 Filed: 02/23/2004 For: KERNEL-LEVEL METHOD OF FLAGGING PROBLEMS IN APPLICATIONS	DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed August 10, 2009, requesting the Commissioner to invoke his supervisory authority to withdraw the final Office action dated May 13, 2009.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1) On November 04, 2008, a non-final Office action, rejecting all pending claims, was mailed.

(2) On February 04, 2009, a response to the non-final Office action including remarks was filed (all pending independent claims were amended).

(3) On May 13, 2009, a final Office action, rejecting all pending claims, was mailed.

(4) On June 26, 2009, after final arguments along with a request for reconsideration was filed.

(5) On July 14, 2009, an advisory action was mailed.

(6) On August 10, 2009, a telephone interview between SPE Robert Beausoleil and Applicant Ryan Loveless took place; a summary of the conversation appears in the record.

(7) On August 10, 2009, the instant petition was filed.

(8) On August 11, 2009, a notice of appeal and pre-appeal brief req. for review were filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests withdrawal of the final Office action of May 13, 2009.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

MPEP § 706.07(a) states in part that:
Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

§ 706.07(c) Final Rejection, Premature
Any question as to ***prematureness of a final rejection*** should be raised, if at all, while the application is still pending before the primary examiner. This ***is purely a question of practice, wholly distinct from the tenability of the rejection***. It may therefore not be advanced as a ground for appeal, or made the basis of complaint before the Board of Patent Appeals and Interferences. It is reviewable by petition under 37 CFR 1.181.

706.07(e) [R-6] Withdrawal of Final Rejection, General
Once a final rejection that is not premature has been entered in an application/reexamination proceeding, it should not be withdrawn at the applicant's or patent owner's request except on a showing under 37 CFR 1.116(b). Further amendment or argument will be considered in certain instances. An amendment that will place the application either in condition for allowance or in better form for appeal may be admitted. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(a). The examiner may withdraw the rejection of finally rejected claims.

714.13 [R-5] ***Amendments and Other Replies After Final Rejection*** or Action, Procedure Followed
II. ENTRY NOT A MATTER OF RIGHT
It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.

MPEP 1201, which sets forth:
The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a *>substantive< nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. ***Where the differences of opinion concern the denial of patent claims because of prior art or **>other patentability issues<, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute >(35 U.S.C. 134)<.***
The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the **>Director of the U.S. Patent and Trademark Office (Director)< should be carefully observed. The Board will not ordinarily hear a question **>that< should be decided by the *>Director on petition<, and the *>Director< will not ordinarily entertain a petition where the question presented is **>a matter appealable to the Board<.

A review of the file record indicates that the final Office action mailed May 13, 2009 does not present a new ground(s) of rejection by the Examiner. Rather, the final Office action repeats all of the rejections set forth in the non-final Office action mailed November 04, 2008. As clearly set forth in MPEP § 706.07(a) above, a second or subsequent Office action can be made final wherein the Examiner repeats the grounds of rejection from the previous Office action. Accordingly, the finality of the May 13, 2009 Office action is deemed to be procedurally correct and consistent with current Office practice.

In the instant petition on pages 2-8 thereof under "Statement of Facts", Petitioner presents one main point for review. Applicant states in the instant petition that the Office actions presented by the Examiner, in particular the final Office action and advisory action, fail to advance the prosecution of the present application, since the Office actions *do not properly take note of Applicant's arguments* or *answer the substance of those traversal positions* in compliance with M.P.E.P. § 707.07(f) and § 706.07. The Examiner's position, as set forth in the final Office action, is that Applicant's arguments filed February 04, 2009 "have been fully considered but they are not persuasive" (see final Office action, pages 15-16 thereof).

A thorough comparison of the November 4, 2008 non-final Office action to the final Office action of May 13, 2009 reveals expanded arguments in the final action proffered by the Examiner at pages 3, 9-11 & 13-14 thereof. Note in particular pages 15-16 for extensive new arguments with respect to claim 9 and the reference to Chen, as set forth by the Examiner. Thus it appears that the Examiner has attempted to rebut arguments raised by Applicant. This is highlighted by the substance of the interview held on August 4, 2009 (see Examiner interview summary mailed on August 10, 2009). Finally, with respect to Applicant's remarks throughout the instant petition concerning arguments presented in the (after final rejection) reply submitted on June 26, 2009, Applicant is reminded, in accordance with MPEP 714.13(II), that amendments and other replies filed after final rejection are not entered as a matter of right.

As set forth in MPEP 1201 above, where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134). Such issues regarding differences of opinion are thus appealable, rather than petitionable. The proper venue to resolve such differences is at the Board of Appeals.

Note, for informational purposes, Applicant and Examiner should be made aware, as set forth in MPEP § 707.07(f):

The importance of answering applicant's arguments is illustrated by In re Herrmann, 261 F.2d 598, 120 USPQ 182 (CCPA 1958) where the applicant urged that the subject matter claimed produced new and useful results. The court noted that since applicant's statement of advantages was not questioned by the examiner or the Board of Appeals, it was constrained to accept the statement at face value and therefore found certain claims to be allowable. See also In re Soni, 54 F.3d 746, 751, 34 USPQ2d 1684, 1688 (Fed. Cir. 1995) (Office failed to rebut applicant's argument).

CONCLUSION

Accordingly, for the above stated reasons, the petition and request to withdraw the final Office action of May 13, 2009 is **DISMISSED**. The application is being forwarded to the Examiner for consideration and processing of the pre-appeal brief request for review filed on August 11, 2009.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Nestor Ramirez, Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

NR:blj

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

TAROLLI, SUNDHEIM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND OH 44114

COPY MAILED

NOV 1 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	
Application No. 10/784,528	:	DECISION ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 27708/04119	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2009 and October 28, 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 file a proper and timely reply within the meaning of 37 CFR 1.113 to the final Office action of March 17, 2009. Accordingly, the application became abandoned on June 18, 2009. A Notice of Abandonment was mailed September 28, 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.

Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

The Examiner has responded to the Amendment After Final with an Advisory Action (copy enclosed).

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

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 Joan Olszewski at (571) 272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

Enclosure: Examiner's Advisory

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/784,528	Applicant(s) BROWN ET AL.	
	Examiner FEREYDOUN G. SAJJADI	Art Unit 1633	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *4,7,8,15,26 and 27*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Fereydoun G Sajjadi/
Primary Examiner, Art Unit 1633

Continuation of 3. NOTE: Applicants' proposed amendment includes new claims 28-39, directed to limitations for increasing the level of phosphorylation on serine 15 of p53, decreasing the level of cyclins A and B, increasing the level of cyclin D3, increasing the level of p53 and increasing the level of cleaved PARP, not previously presented or examined. Entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier.

Continuation of 11. does NOT place the application in condition for allowance because: The examiner maintains the rejection of claims 4,7,8,15,26 and 27 under 35 U.S.C.§112, first paragraph, because the specification fails to provide an enablement for the full scope of the claimed invention.
With reference to the working examples and various case law, Appicants argue that the Office has not provided a reasonable explanation as to why it believes that the scope of protection provided by that claim is not adequately enabled by the description of the invention provided in the specification of the application. Applicants' arguments have bee fully considered, but are not found persuasive.
In response, Applicants are directed to the previous Office actions detailing the grounds for rejection, that include deficiencies in the cancer models utilized and specific teaching away from Applicants' claimed invention by the prior art.
Applicants argue the present claims are directed to inducing apoptosis in human prostate cancer or breast cancer cells; and although it is true that the present application contemplates treating a variety of cancers by induction of apoptosis, practicing the claimed invention does not require the treatment of clinical cancer. Such is not found persuasive, because Applicants' statement appears inconsistent, as Applicants have admitted on the record that the application contemplates treating a variety of cancers by induction of apoptosis. The claims have been given the broadest reasonable interpretation in view of the as filed specification.
Applicants' arguments regarding the cancer models reviewed by Krebel and Vieweg are not found persuasive, because they clearly set forth the unpredictability of the cancer models.
Applicants' argument that Wang would not lead a skilled artisan to believe that further experimentation is needed to resolve the apparent paradox suggested by Wang when treating cancers, by stating: "over-expression of K+ channels by infection of tumour cells with virus vectors carrying K+ channel cDNAs, will be feasible sooner or later", is not found persuasive, because the statement makes it clear that such treatment is not yet feasable and the obstacles in such approach need to be overcome. An invitation for further experimentation is not indicative of an enabled disclosure.
Applicants' reference to In re Brana, that in the context of pharmaceutical inventions, necessarily includes the expectation of further research and development, ignores the critical Wands factor of predictability, that must be considered in an enablement rejection. Further experimentation is permissible when it is merely routine and predictable, however, in the instant case, enhancement of K+ channel activity can facilitate not only tumor cell apoptosis but also tumor cell proliferation, and as indicated by Wang, this apparent paradox confounds the manipulation of K+ channel function and/or expression as an option for the treatment of cancers.
Thus, the rejection is maintained for reasons of record and the foregoing response.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FEREYDOUN G. SAJJADI whose telephone number is (571)272-3311. The examiner can normally be reached on 6:30 AM-3:30 PM EST.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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

TAROLLI, SUNDHEIM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND OH 44114

COPY MAILED

DEC 3 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Brown et al.	:	
Application No. 10/784,528	:	DECISION ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 27708/04119	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly and timely reply to the final Office action mailed March 17, 2009. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on June 18, 2009. A Notice of Abandonment was mailed September 28, 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 $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00 (previously paid on September 29, 2009); and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 1633 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Joan Olszewski

Joan Olszewski
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

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

COPY MAILED

JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Van Gestel et al. :
Application No. 10/784,533 : DECISION ON PETITION
Filed: February 23, 2004 :
Attorney Docket No. PHN 14,818D :
:

This is a decision on the petition under 37 CFR 1.182, filed December 17, 2004, requesting that the above-identified application be accorded a filing date of February 23, 2004, instead of the present filing date of October 18, 2004.

On September 22, 2004, the Office sent applicants a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted, indicating, inter alia, that the above-identified application had been accorded a filing date of February 23, 2004, and that Figures 10 and 11 appeared to be omitted.

On October 18, 2004, applicants submitted 10 sheets of drawings, including Figures 10 and 11, and a preliminary amendment requesting entry of Figures 10 and 11. In the Remarks section of the preliminary amendment, applicants stated that the addition of Figures 10 and 11 (drawing sheet 7/10) did not constitute new matter because the transmittal letter accompanying this application incorporated by reference the entire disclosure of the prior application, and the disclosure of the prior application included Figures 10 and 11.

Thereafter, the Office of Initial Patent Examination accorded the application a filing date of October 18, 2004, the date the omitted Figures were received by the Office.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the

> specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied).

Obviously, applicants intended to amend the application to include Figures 10 and 11, which were incorporated by reference. Applicants did not request that the Office accord the application the later filing date of October 18, 2004, the date of receipt of the omitted Figures. The application should have retained the original filing date of February 23, 2004, and the matter should have been referred to the examiner to review the preliminary amendment.

Accordingly, the record supports applicants' assertion that the Office erroneously changed the application filing date to October 18, 2004. The Office sincerely apologizes for the error.

Accordingly, the petition is granted. The $400.00 petition fee is unnecessary and will be refunded to Deposit Account No. 14-1270.[1]

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to February 23, 2004, using the drawing sheets submitted on that date, and for the mailing of a corrected filing receipt. Figures 10 and 11 will not be entered at this time.

Thereafter, the matter should be referred to Technology Center Art Unit 2621, for the examiner to review the amendment submitted on October 18, 2004, requesting entry of Figures 10 and 11 on the basis of incorporation by reference.

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

---

[1] The Office notes that the fee for a petition under 37 CFR 1.182 is $400.00. The Office charged applicants' Deposit Account the current fee amount instead of the proffered fee of $130.00.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUL 17 2009

OFFICE OF PETITIONS

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

In re Application of	:	
McMillan, et al.	:	
Application No. 10/784,536	:	ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 26780/12D1	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed May 27, 2009, which is being treated as a petition to revive under 37 CFR 1.137(b), due to the fact that petitioner paid the fee for §1.137(b), as well as made a statement of unintentional delay.

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

The above-identified application became abandoned for failure to timely file corrected drawings in response to the Office communication mailed February 10, 2009. This letter set a non-extendable period for reply of two (2) months. No drawings having been received, the application became abandoned on April 11, 2009. The Office mailed a Notice of Abandonment on April 20, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of replacement drawings.

The application is being forwarded to the Office of Data Management for processing into a patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of
Aggidis et al.
Application No. 10/784,544
Filed: February 23, 2004
Attorney Docket No. 04-40092-US

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 20, 2004, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on February 23, 2004, without an executed oath or declaration. Accordingly, on May 18, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of July 18, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make the reply timely, a five (5) month extension of time was also submitted.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that inventor Aggidis was ever presented with a copy of the application papers. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The petition indicates only the declaration and power attorney were presented. Further petitioner states efforts have been made by Gilbert Gilkes & Gordon Limited as well as the UK attorney to obtain inventor Aggidis signature but Aggidis maintained his refusal. On renewed petition, petitioner should state what efforts were made and identify what manner the refusal was conveyed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

REED SMITH LLP
2500 ONE LIBERTY PLACE
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

JUL 2 9 2005

OFFICE OF PETITIONS

In re Application of George Anthanasios Aggidis and Robert Catley Application No.10/784,544 Filed: February 23, 2004 Attorney Docket No. 04-40092-US Title of Invention: Turbines and in Particular Pelton Wheel Turbines	DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed May 19, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Aggidis has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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

WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

COPY MAILED.

MAY 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Lucy Grace Hosking	:	
Application No. 10/784,565	:	DECISION ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 15436.299	:	

This is a decision on the petition under 37 CFR 1.182, filed, June 8, 2004, to change the inventor's name from "Stephen Gerald Hosking" to – Lucy Grace Hosking --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is currently before Technology Center AU 2828 awaiting a reply to the January 26, 2007 Office action.

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

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/784,565	02/23/2004	2828	806	15436.299	22	2

CONFIRMATION NO. 8644

CORRECTED FILING RECEIPT

OC000000023856102

22913
WORKMAN NYDEGGER
(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 05/14/2007

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)

Lucy Grace Hosking, Santa Cruz, CA;

Power of Attorney: The patent practitioners associated with Customer Number **022913**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/784,565

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

System and method for control of optical transmitter

Preliminary Class

372

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

INGRASSIA FISHER & LORENZ, P.C. (Symbol)
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253-1406

Mail Date: 04/23/2010

Applicant	: Robert Beach	: DECISION ON REQUEST FOR
Patent Number	: 7653033	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/784,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1177** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

MAILED

APR 01 2010

OFFICE OF PETITIONS

In re Application of	:
Joseph P. Errico, et al.	:
Application No. 10/784,597	: DECISION ON PETITION
Filed: October 12, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: SPINE 3.0-437	:
CIPCIPCIPCI	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 4, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the Application Data Sheet (ADS) filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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
10/784,597	10/12/2004	3738	790	SPINE 3.0-437 CIPCIPCIPCI	20	2

CONFIRMATION NO. 8309

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000040910975

Date Mailed: 03/31/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joseph P. Errico, Green Brook, NJ;
Michael W. Didasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 000530

Domestic Priority data as claimed by applicant

This application is a CON of 10/282,356 10/29/2002 PAT 7,169,182
which is a CIP of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002 PAT 7,563,285
which is a CIP of 10/151,280 05/20/2002 PAT 7,604,664
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 08/09/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/784,597**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Artificial intervertebral disc trials having a cylindrical engagement surface

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

MAILED

SEP 08 2009

OFFICE OF PETITIONS

In re Application of Joseph P. Errico et al. Application No. 10/784,598 Filing Date: October 12, 2004 Attorney Docket No.: SPINE 3.0-437 Title: INSTRUMENTATION FOR REPOSITIONING AND EXTRACTING AN ARTIFICIAL INTERVERTEBRAL DISC FROM AN INTERVERTEBRAL SPACE	DECISION ON PETITION UNDER 37 C.F.R. § 1.78(A)(3)

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(3), filed January 13, 2009 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Supplemental Application Data Sheet (ADS) filed concurrently with this petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

37 C.F.R. § 1.78(a)(3)(iii) requires a statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. § 1.78 and the date the claim was filed was unintentional.

Since the statement contained in this renewed petition varies slightly from the language required by 37 C.F.R. § 1.78(a)(3)(iii), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.78(a)(3)(iii), and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

Requirements (2) and (3) above have been satisfied. The petition does not satisfy item (1) above.

Pursuant to Rule § 1.78(a)(2)(iii), the required reference must be included in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. Consequently, Petitioner has submitted a supplemental ADS with the present petition, so as to present the required reference. Petitioner has asserted that this supplemental ADS has been executed,[1] however this assertion is inaccurate.

The supplemental ADS that was submitted concurrently with this petition cannot be entered, for the following two reasons:

First, **it has not been titled "Supplemental Application Data Sheet;"** the word "supplemental" has been omitted from the title. Pursuant to 37 C.F.R. § 1.76(c)(2), "[s]upplemental application data sheets…[m]ust be titled "Supplemental Application Data Sheet."[2]

Second, **it has not been executed.** Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R.

---

1 Petition, page 4.
2 It is noted that the supplemental ADS contains the word "[s]upplemental" in the footer, instead of the title.

§ 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(b).

Any reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.78(a)(3)," **and should include a supplemental ADS that is both properly titled and executed.** This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

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 deciding official.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
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.

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.

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED
FEB 16 2010

In re Application of Joseph P. Errico et al. Application No. 10/784,598 Filing Date: October 12, 2004 Attorney Docket No.: SPINE 3.0-437 Title: INSTRUMENTATION FOR REPOSITIONING AND EXTRACTING AN ARTIFICIAL INTERVERTEBRAL DISC FROM AN INTERVERTEBRAL SPACE	DECISION ON RENEWED PETITION UNDER 37 C.F.R. § 1.78(A)(3)

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.78(a)(3), filed January 13, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Supplemental Application Data Sheet (ADS) filed concurrently with this renewed petition.

The renewed petition is **DISMISSED AS MOOT**.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

An original petition pursuant to 37 C.F.R. § 1.78(a)(3) was filed on January 13, 2009, and was dismissed via the mailing of a decision on September 8, 2009, as the concurrently submitted supplemental Application Data Sheet (ADS) was neither titled as such or executed.

With this renewed petition, Petitioner has submitted a properly titled and executed Supplemental Application Data Sheet. However, it is controlling that a review of the "Domestic Priority Information" which appears on the third page of the Supplemental Application Data Sheet indicates that Petitioner does not seek to modify the relationship of the present application with the application to which it claims the direct benefit of - it is the relationship of each preceding application which he seeks to modify (there are ten preceding applications; each is a continuation of the application which precedes it, and Petitioner seeks to change each relationship to a continuation-in-part).

Where an application claims a benefit under 35 U.S.C. 120 of a chain of applications, the application must make a reference to the first (earliest) application and every intermediate application. See Sampson v. Ampex Corp., 463 F.2d 1042, 1044-45, 174 USPQ 417, 418-19 (2d Cir. 1972); Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 93, 160 USPQ 177, 179 (7th Cir. 1968); Hovlid v. Asari, 305 F.2d 747, 751, 134 USPQ 162, 165 (9th Cir. 1962). See also MPEP § 201.11. In addition, every intermediate application must also make a reference to the first (earliest) application and every application after the first application and before such intermediate application. MPEP § 201.06(d).

Modifying the relationships of the preceding applications in the Supplemental Application Data Sheet that is present in the present application will have no effect on any of the preceding applications - Petitioner must correct the benefit claim in each preceding application.

No petition under 37 CFR 1.78(a)(3) or surcharge is required when the applicant is changing the relationship in a benefit claim

from "continuation" (or "divisional") to "continuation-in-part" or from "continuation-in-part" to "continuation" (or "divisional"), or from "continuation" to "divisional", because the Office was able to schedule the application for publication with the relationship given. Therefore, **Petitioner should file a certificate of correction in each of the preceding applications which have matured into U.S. patents. For application numbers 10/175,417 and 10/140,153 which have gone abandoned, Petitioner will need to revive these applications so as to correct the benefit claim relationship via the filing of an amendment in each application.**

As the petition was not required, it will be dismissed as moot. As such, the $1,4100.00 petition fee submitted on January 13, 2009 is unnecessary and will be refunded to Petitioner's Deposit Account in due course.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[1] All other inquiries concerning examination procedures should be directed to the Technology Center.

Anthony Knight
Supervisor
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.

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

MAY 29 2008

OFFICE OF PETITIONS

In re Application of	:	
LORA, et al.	:	
Application No. 10/784,605	:	DECISION ON PETITION
Filed: February 23, 2004	:	TO WITHDRAW
Attorney Docket No. **9268-3**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 27, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "termination of client representation for this matter", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JENNIFER SMITH**
IBM CORPORATION, IQ0A/040-3
1701 NORTH STREET
ENDICOTT, NY 13760

UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAILED FROM
DIRECTORS OFFICE

AUG 2 4 2006

TECHNOLOGY CENTER 2800

In re Patent No. 6,926,449	:	
Issue Date: August 9, 2005	:	
Appl. No.: 10/784,610	:	DECISION ON PETITION
Filed: February 23, 2004	:	37 CFR 1.324
For: CONNECTOR PORT FOR NETWORK	:	
INTERFACE DEVICE	:	

This is a decision on the petition under 37 CFR 1.324, filed April 27, 2006.

The petition is **granted**.

In view of the papers filed August 07, 2001 and the declarations filed April 27, 2006, it has been found that this application, as filed, through error and without any deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR § 1.48. The inventorship of this application has been changed by the addition of the following inventor: Stephen G. Bloodworth.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Frank G. Font
Supervisory Patent Examiner, Art Unit 2883,
Patent Examining Group 2800

FGF/fgf

CHRISTOPHER C. DREMANN
CORNING CABLE SYSTEMS LLC
P. O. BOX 489
HICKORY, NC 28603

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

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED FROM
DIRECTORS OFFICE
AUG 2 4 2006
TECHNOLOGY CENTER 2800

CERTIFICATE

Patent No. 6,926,449 Patented: AUGUST 9, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above - identified patent, through error and without any deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

John A. Keenum, Brad N. Grunwald, Stephen G. Bloodworth

Frank G. Font, SPE 2883
Examining Group 2800

FGF/fgf

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Oct-05

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

OCT 24 2005

OFFICE OF PETITIONS

In re Application of	:	
Yannis Tsividis	:	
Application No. 10/784,613	:	DECISION ON PETITION
Filed: 23 February, 2004	:	
Atty Docket No. 021673-000210US	:	

This is a decision on the petition filed on 7 October, 2005, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on 5 January, 2005, a non-final Office action was mailed, setting a three (3) month shortened statutory period for reply.

On 6 July, 2005 (certificate of facsimile transmission date 5 July, 2005), a three (3) month extension of time and amendment in reply to the non-final Office action were filed.

On 26 September, 2005, a Notice of Allowance and Fee(s) Due and Notice of Allowability were mailed, setting a three month period for reply.

As such, the application was never abandoned, and no petition to revive is necessary.

The petition fee will be credited to counsel's deposit account, No. 02-2266.

Receipt of the power of attorney filed on 7 October, 2005, is acknowledged.

The application will be referred to the Office of Publications to await receipt of the issue fee.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Dec-05

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

DEC 0 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Yannis Tsivdis	:	DECISION ON PETITION
Application No. 10/784,613	:	
Filed: 23 February, 2004	:	
Atty Docket No. 7084P004	:	

This is a decision on the petition, filed on 21 September, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 27 February, 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 Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on 26 September, 2005. However, in view of the nonpublication request filed with the application, the Notice of Allowance mailed in this case did not require the submission of a publication fee. Therefore, in view of the rescinding of the nonpublication request, a Notice of Publication Fee Due is being mailed under separate cover. Petitioner should note that payment of the publication fee is required to be filed within the period set forth in the Notice to avoid abandonment of the application.

A projected publication date will be assigned in due course. Petitioner will be notified of this date in a separate correspondence.

The application is being referred to the Office of Publication to await receipt of the issue fee.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

SUSAN M. DONAHUE
ROCKWELL AUTOMATION
704-P, IP DEPARTMENT
1201 SOUTH 2ND STREET
MILWAUKEE, WI 53204

COPY MAILED

OCT 08 2008

OFFICE OF PETITIONS

In re Application of :
Jeffrey G. Cherny, et al. :
Application No. 10/784,626 : ON PETITION
Filed: February 23, 2004 :
Attorney Docket No. 00AB070A / ALBRP175USA :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 19, 2008.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before February 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 14, 2006. A Notice of Abandonment was mailed on March 19, 2007. On May 19, 2008, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Himanshu S. Amin appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a). A courtesy copy of this decision is being mailed to petitioner; but, if Mr. Amin desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition 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 and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement of unintentional delay is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: HIMANSHU S. AMIN
AMIN, TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 E. 9TH STREET
CLEVELAND, OH 44114

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/22/2010

Applicant	: Joseph P. Errico	: DECISION ON REQUEST FOR
Patent Number	: 7632281	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/784,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

SEP 2 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Errico, et al.	:	
Application No. 10/784,637	:	DECISION ON PETITION
Filed: 23 February, 2004	:	UNDER 37 C.F.R. 1.78(a)(6)
Attorney Docket No. F-270	:	

This is a decision on the petition under 37 C.F.R. § 1.78(a)(3), filed on 27 January, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in §1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 C.F.R. § 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(4) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

This application is being referred to Technology Center/AU 3738 for consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr., attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Thurna T. Page for AK

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/784,637	02/23/2004	3738	385	F-270	12	2

CONFIRMATION NO. 8185

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000037891082

Date Mailed: 09/21/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joseph P. Errico, Kirkland, WA;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 36402

Domestic Priority data as claimed by applicant

This application is a CIP of 10/282,356 10/29/2002 PAT 7,169,182
which is a CIP of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002 PAT 7,563,285
which is a CIP of 10/151,280 05/20/2002
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/784,637**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Instrumentation for properly seating an artificial intervertebral disc in an intervertebral space

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/784,637	02/23/2004	3738	385	F-270	12	2

CONFIRMATION NO. 8185

CORRECTED FILING RECEIPT

OC000000037891082

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Date Mailed: 09/21/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joseph P. Errico, Kirkland, WA;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 36402

Domestic Priority data as claimed by applicant

This application is a CIP of 10/282,356 10/29/2002 PAT 7,169,182
which is a CIP of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002 PAT 7,563,285
which is a CIP of 10/151,280 05/20/2002
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/784,637**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Instrumentation for properly seating an artificial intervertebral disc in an intervertebral space

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Correspondence Information

Correspondence Customer Number:: 00530

Representative Information

Representative Customer Number:: 51640

Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	Continuation of	10/282,356	10/29/02
10/282,356	Continuation-in-part of	10/256,160	09/26/02
10/256,160	Continuation-in-part of	10/175,417	06/19/02
10/175,417	Continuation-in-part of	10/151,280	05/20/02
10/151,280	Continuation-in-part of	09/970,479	10/04/01
09/970,479	Continuation-in-part of	09/968,046	10/01/01
10/151,280	Continuation-in-part of	10/140,153	05/07/02
10/140,153	Continuation-in-part of	09/970,479	10/04/01
10/140,153	Continuation-in-part of	10/128,619	04/23/02
10/128,619	Continuation-in-part of	09/906,119	07/16/01
10/128,619	Continuation-in-part of	09/982,148	10/18/01

Foreign Priority Information

Assignee Information

Assignee name::	SpineCore, Inc.
Street of mailing address::	475 Springfield Ave
	4th Floor
City of mailing address::	Summit
State or Province of mailing address::	NJ
Postal or Zip Code of mailing address::	07901

Dated: January 22, 2009

Respectfully submitted,

By _____

William A. Di Bianca
Registration No.: 58,653
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicants

City of mailing address::	Green Brook
State or Province of mailing address::	NJ
Postal or Zip Code of mailing address::	08812

Applicant Authority Type::	Inventor
Primary Citizenship Country::	US
Status::	Full Capacity
Given Name::	Michael
Middle Name::	W.
Family Name::	Dudasik
City of Residence::	Nutley
State or Province of Residence::	NJ
Country of Residence::	US
Street of mailing address::	29 Daily Street
City of mailing address::	Nutley
State or Province of mailing address::	NJ
Postal or Zip Code of mailing address::	07110

Applicant Authority Type::	Inventor
Primary Citizenship Country::	US
Status::	Full Capacity
Given Name::	Rafail
Family Name::	Zubok
City of Residence::	Midland Park
State or Province of Residence::	NJ
Country of Residence::	US
Street of mailing address::	222 Spruce Street
City of mailing address::	Midland Park
State or Province of mailing address::	NJ
Postal or Zip Code of mailing address::	07432

OIPE IAP40
JAN 27 2009
PATENT & TRADEMARK OFFICE

Application Data Sheet

Application Information

Application Type::	Regular
Subject Matter::	Utility
Suggested Group Art Unit::	3738
CD-ROM or CD-R?::	None
Sequence submission?::	None
Computer Readable Form (CRF)?::	No
Title::	INSTRUMENTATION FOR PROPERLY SEATING AN ARTIFICIAL DISC IN AN INTERVERTEBRAL SPACE
Attorney Docket Number::	SPINE 3.0-437 CIPCIPCIPCIPCIPCIPCON II
Request for Early Publication?::	No
Request for Non-Publication?::	No
Suggested Drawing Figure::	Fig. 6d
Small Entity?::	No
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

Applicant Information

Applicant Authority Type::	Inventor
Primary Citizenship Country::	US
Status::	Full Capacity
Given Name::	Joseph
Middle Name::	P.
Family Name::	Errico
City of Residence::	Green Brook
State or Province of Residence::	NJ
Country of Residence::	US
Street of mailing address::	29 Deer Path Circle

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

STEFAN V. CHMIELEWSKI
DELPHI TECHNOLOGIES, INC.
Legal Staff MC CT10C
P.O. Box 9005
Kokomo IN 46904-9005

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
R. Clarkson Griffin et al. :
Application No. 10/784,638 : ON PETITION
Filed: February 23, 2004 :
Attorney Docket No.: **DP-307767** :

This is a decision on the petition filed June 8, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 29, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned September 30, 2005. Accordingly, a Notice of Abandonment was mailed on February 9, 2006.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 2632 for appropriate action on the amendment filed June 8, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

GLENN FORBIS
RADER FISHMAN AND GRAVER, PLLC
34533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, MI 48304

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

Spinecore, Inc
447 Springfield Avenue
Suites W2-W3
Summit, NJ 07901

COPY MAILED

SEP 0 3 2004

OFFICE OF PETITIONS

In re Application of :
Errico et al. :
Application No. 10/784,645 : DECISION ON PETITION
Filed: February 23, 2004 :
Attorney Docket No. F-310 (532/21) :

This is a decision on the petition filed July 21, 2004 (certificate of mailing July 16, 2004), requesting that the Office consider Figures 1g-1n as deposited on February 23, 2004, with the original application papers.

The application was filed on February 23, 2004. However, on May 19, 2004, the Office mailed a "Notice of Omitted Items" stating that the application had been accorded a filing date of February 23, 2004; however, figures 1g-1n described in the specification appeared to have been omitted. In response, petitioner admits figures 1g -1n were inadvertently omitted. Nonetheless, petitioner asserts the presence of the drawings on filing via an incorporation by reference statement.

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 1g-1n were filed on February 23, 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. 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 continuation of prior application No. 10/425,267 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), <u>without the need for a petition</u> 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 1g-1n are not new matter if they were a part of the disclosure of the prior application.

The Office acknowledges receipt of a preliminary amendment requesting the entry of the sheets of drawings, containing figures 1g-1n submitted with the instant petition.

The correspondence address on the petition differs from the correspondence address of record. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application will be processed by the Office of Initial Patent Examination with a **filing date of February 23, 2004**, including an indication in Office records that 3 sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Timothy Gibson
Kaplan & Gilman , L.L.P
900 Route 9 North, Suite 104
Woodbridge, NJ 07095

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

SPINE MP
LERNER, DAVID, ET AL
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED
JAN 16 2009

In re Application of	:
Joseph P. Errico et al	:
Application No. 10/784,645	: DECISION ON PETITION
Filed: February 23, 2004	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. SPINE 3.0-437	:
CPCPCPCPCPC	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 24, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment and the Application Data Sheet (ADS).

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further,

the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Petitioner should note that the order of the domestic priority data on the ADS is different from that on the amendment to the specification. The priority data was entered as specified in the amendment submitted with the above petition on November 24, 2008.

Any questions concerning this matter 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 Technology Center Art Unit 3738 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Karen Creasy

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/784,645	02/23/2004	3738	790	SPINE 3.0-437 CPCPCPCPCPC	20	2

CONFIRMATION NO. 8190

CORRECTED FILING RECEIPT

51640
SPINE MP
LERNER, DAVID, et al.
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000034007269

Date Mailed: 01/12/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joseph P. Errico, Green Brook, NJ;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Assignment For Published Patent Application

SpineCore, Inc., Summit, NJ

Power of Attorney: The patent practitioners associated with Customer Number 000051640

Domestic Priority data as claimed by applicant

This application is a CON of 10/425,267 04/29/2003 PAT 7,235,081
which is a CIP of 10/282,356 10/29/2002 PAT 7,169,182
which is a CIP of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002
which is a CIP of 10/151,280 05/20/2002
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
and said 09/970,479 10/04/2001
is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/784,645**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Wedge plate inserter/impactor and related methods for use in implanting an artificial intervertebral disc

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

APR 2 2 2009

OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of	:	
Joseph P. Errico et al	:	
Application No. 10/784,646	:	DECISION ON PETITION
Filed: February 23, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. F-269	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3) , filed March 19, 2009, to correct priority information.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title and an Application Data Sheet (ADS), to correct the relationship to the prior-filed applications.

The filing of a petition is not necessary to correct relationship (example, continuation to division) if the benefit claim to each of the applications were included in the specification upon filing of the above application. No new applications were included in the above petition seeking a benefit claim.

In view of the above, the $1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition 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 referred to Technology Center AU 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Karen Creasy

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
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
10/784,646	02/23/2004	3738	435	F-269	20	1

CONFIRMATION NO. 8184

CORRECTED FILING RECEIPT

530
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

OC000000035439894

Date Mailed: 04/10/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Joseph P. Errico, Kirkland, WA;
Michael W. Dudasik, Nutley, NJ;
Rafail Zubok, Midland Park, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 36402

Domestic Priority data as claimed by applicant

This application is a CON of 10/282,356 10/29/2002 PAT 7,169,182
which is a CIP of 10/256,160 09/26/2002 PAT 6,989,032
which is a CIP of 10/175,417 06/19/2002
which is a CIP of 10/151,280 05/20/2002
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
and is a CIP of 10/140,153 05/07/2002 ABN
which is a CIP of 09/970,479 10/04/2001 PAT 6,669,730
which is a CIP of 09/968,046 10/01/2001 ABN
and said 10/140,153 05/07/2002
is a CIP of 10/128,619 04/23/2002 PAT 6,863,689
which is a CIP of 09/906,119 07/16/2001 PAT 6,607,559
and is a CIP of 09/982,148 10/18/2001 PAT 6,673,113

Foreign Applications

If Required, Foreign Filing License Granted: 05/18/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/784,646**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Artificial intervertebral disc trial having a controllably separable distal end

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/23/10

TO SPE OF : ART UNIT 2167 (2100)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/784,663 Patent No.: 7,386,555

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE _____ **ART UNIT** 2167

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/23/10

TO SPE OF : ART UNIT 2167 (2100)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/784,663 Patent No.: 7,386,555

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE _____ **ART UNIT** 2167

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

Patrick G. Burns, Esq.
GREER, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Dr.
Chicago IL 60606

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of Kohei Takamatsu et al. Application No. 10/784,666 Filed: February 23, 2004 Attorney Docket Number: 0941.69863 Title: ECCENTRICITY CORRECTION DATA RECORDING METHOD AND RECORDING MEDIUM HAVING ECCENTRICITY CORRECTION DATA	DECISION ON PETITIONS UNDER 37 C.F.R. §§ 1.137(A), 1.137(B), and 1.181

This is a decision on the petitions filed August 23, 2006, pursuant to 37 C.F.R. §§ 1.137(a), 1.137(b), and 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn and/or that the present application be revived.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R §1.113 in a timely manner to the final Office action mailed January 11, 2006, which set a shortened statutory period for reply of three months[1]. An after-final amendment was received on May 15, 2006 along with a one-month extension of time (the submission contained a certificate of mailing dated May 10, 2006), and an advisory action was mailed on May 25, 2006. No further extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on May 11, 2006.

1 It is noted that the electronic file does not appear to contain a copy of the final Office action.

With the present petitions, Petitioner has asserted that a Request for Continued Examination (RCE) was submitted on June 7, 2005. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated June 7, 2005.

The petition under 37 C.F.R. §1.181:

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn, and has submitted a copy of the response which was purportedly submitted to the Office in a timely manner.

37 C.F.R. § 1.8(b) sets forth, *in toto*:

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.

Petitioner has set forth the procedure that is used in his office when filing an RCE. An administrative assistant prepares the RCE, and submits it to the attorney for his review. The attorney then executes the certificate of mailing, and returns the papers to the administrative assistant. The administrative assistant then delivers the papers to the mailroom, where they are placed in an envelope and deposited with the USPS later that day.

It is noted that the attorney executed the certificate of mailing, and it is clear that the attorney did not have personal knowledge of the actual mailing. It does not appear that any statement has been provided from either the administrative assistant or someone in the mailroom.

As such, Petitioner has not met the requirements of 37 C.F.R. §1.8(b)(3), and the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

The petition under 37 C.F.R. §1.137(a):

The fee associated with the filing of this petition has been charged to Petitioner's deposit account.

Petitioner has established that the entire period of delay was unavoidable.

As such, the petition under 37 C.F.R. §1.137(a) is **GRANTED**.

The petition under 37 C.F.R. §1.137(b) will not be addressed. The fee associated with the filing of this petition will not be charged to Petitioner's deposit account.

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 RCE which was received 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 Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202-3789

COPY MAILED

JUN 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Lev RING, et al	:	
Application No. 10/784,679	:	DECISION ON PETITION
Filed: February 23, 2004	:	TO WITHDRAW
Attorney Docket No. 25791.318	:	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 23, 2007.

The request is **NOT APPROVED**.

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: TODD MATTINGLY
KING & SPALDING, L.L.P.
1100 LOUISIANA STREET,
SUITE 4000
HOUSTON, TX 77002

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

JAN -6 2005

In re Application of	:	
Bunlue Yontrarak	:	
Serial No. 10/784,684	:	DECISION ON PETITION
Filed: February 23, 2004	:	TO MAKE SPECIAL
For: VENEER SLICER	:	

Applicant's petition, filed July 12, 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.

Richard A Bertsch

Richard A. Bertsch, Director
Technology Center 3700

William R. Evans
Ladas and Parry LLP
26 West 61st Street
New York, NY 10023

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

HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

COPY MAILED

JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Andrew Louis Martin	:	
Application No. 10/784,686	:	
Filed: February 23, 2004	:	
Attorney Docket No. 34746	:	

This is a decision on the petition, filed June 17, 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 June 15, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of

RICE, Robert et al.
Application No. 10/784,708
Filed: February 23, 2004
Attorney Docket No. **BWORL.0101**

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 23, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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 acts (2) thru (3) noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **WORLD WIDE NOTARY**
1700 S. BRIDGE
BRADY TX 76825

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

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND OH 44114

COPY MAILED

FEB 21 2008

In re Application of :
Bennett, et al. :
Application No. 10/784,717 : ON PETITION
Filed: February 23, 2004 :
Attorney Docket No. 28679/04780 :
For: ELECTRO-PNEUMATIC LATCHING VALVE SYSTEM

This is a decision on the petition under 37 CFR 1.181, filed January 8, 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 June 12, 2007, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on September 13, 2007 for failure to reply to the June 12, 2007 non-final Office action. A Notice of Abandonment was mailed on January 3, 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 December 12, 2007. 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 December 13, 2007. The mailroom date for the payment was December 12, 2007. 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 3, 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. 3683 for consideration of the amendment filed on December 12, 2007.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

COPY MAILED
APR 2 8 2005
OFFICE OF PETITIONS

In re Application of	:	
Muir, et al.	:	
Filed: February 23, 2004	:	ON PETITION
Application No. 10/784,721	:	
Dkt. No.: 3440-P02516US1	:	

This decision is in response to the "PETITION UNDER 37 C.F.R. §1.182 FOR INCLUDING IN THIS APPLICATION OMITTED DRAWINGS CONTAINED IN THE PARENT APPLICATION," filed October 14, 2004, requesting that the instant application be accorded a filing date of February 23, 2004 and that the drawings submitted herewith be entered into the record.

The petition is **DISMISSED**.

The application was submitted February 23, 2004. On September August 13, 2004, , the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application ("Notice"). The Notice indicated that the application had not been accorded a filing date because the application was deposited without drawings as required under 35 USC 113 (first sentence). The Notice indicated the filing date of the application would be date of receipt of the omitted items. Any assertion that the omitted items were in fact submitted or are not necessary for a filing date must be by way of petition.

Petitioners argue that the instant application "omitted Figures 1-5 of the drawings" and that "Figures 1-5 were contained in the parent '543 application, which was duly incorporated by reference in the '721 application at the time of its filing."

As stated in MPEP 601.01(f), it is the practice of the PTO to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence).

Moreover, MPEP 601.01(f) states that 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 and the names of all the inventors. Should the Technology Center determine that drawings are necessary under 35 U.S.C. 113 (first sentence) the filing date issue will be reconsidered by the USPTO.

A review of the official file reveals that the instant application includes at least one method claim. As it is USPTO practice to treat a non-provisional application that contains at least some disclosure of a process or method as an application for which a drawing is not necessary, the application, as submitted, was entitled to a filing date of February 23, 2004. Thus, the instant petition to accord the application a filing date is unnecessary and the Notice of Incomplete Application mailed August 13, 2004 was mailed in error and is hereby withdrawn.

The application will be processed with only the papers present on February 23, 2004, without drawings as part of the original disclosure.

It is noted that the instant petition included a second preliminary amended addressing the matter of admission of the drawings. Said amendment will be addressed by the appropriate group art unit in due course.

No fee is due in connection with this matter. A refund of $130.00 has been requested on petitioners' behalf from the Finance Office, Refund Section.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 23, 2004 using only the papers present on that day.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 10 2007

OFFICE OF PETITIONS

RANDALL J. KNUTH P.C.
901 PIMLICO DRIVE , SUITE 1A
CENTERVILLE, OH 45459

In re Application of
Allan H. Clauer, et al.
Application No. 10/784,725
Filed: February 20, 2004
Attorney Docket No. LSP-37

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 10, 2007.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before April 10, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed January 10, 2006. Accordingly, the date of abandonment of this application is April 11, 2006. A Notice of Abandonment was mailed on June 9, 2006. On August 10, 2007, the present petition was filed.

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of W. Scott Harders appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Mr. Harders desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that 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) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: W. SCOTT HARDERS
BENESCH FRIEDLANDER COPLAN & ARONOFF, LLP
2300 BP TOWER
200 PUBLIC SQUARE
CLEVELAND, OH 44114

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 7, 2006

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/784732 Patent No.: 7,007,355

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: _____

PETER VO
SUPERVISORY PATENT EXAMINER
SPE TECHNOLOGY CENTER 3700 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Katsuro Kikuchi	: DECISION ON REQUEST FOR
Patent Number	: 7590709	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/784,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1095** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

COPY MAILED

OCT 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	
Application No. 10/784784	:	ON PETITION
Filing or 371(c) Date 02/24/2004	:	
Attorney Docket Number: SEC.1107	:	

This is a decision on the "Petition Under 37 C.F.R. §1.181 to Withdraw Improper Holding of Abandonment and in the Alternative Petition Under 37 C.F.R. §1.137(b) for Revival of an Application Abandoned Unintentionally," filed November 14, 2006.

This Petition under 37 CFR 1.181(a) is **dismissed**.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed May 12, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on August 13, 2006. A Notice of Abandonment was mailed September 20, 2006.

Petition under 37 CFR 1.181

Applicant files the present petition and states that the Notice of Allowability included an Examiner's Amendment wherein the Examiner sua sponte amended Figure 1 to add the label "PRIOR ART", and also added a new heading to Applicant's Specification. The Amendment, Applicant avers, was made without any prior approval by Applicants. Applicant notes that, in conjunction with the Amendment, the Examiner required corrected drawings. Applicant's paid the issue fee but did not file corrected drawings.

Applicant argues that the Examiner's attempt to Amend the application without approval by Applicant lacks any legal authority under the Statute, Rules, case law and is therefore of null effect. Applicant directs attention to the Notice of Allowance which states that if, on examination, it appears that the applicant is entitled to a patent under the law, a notice of

allowance will be sent to the applicant[1]. Applicant argues that there is no authority in the statutes, PTO rules or case law for issuing a Notice of Allowance and requiring Applicant's to do anything other than pay the issue fee, or correct drawing objections under 37 CFR 1.85. Applicant avers that 37 CFR 1.85 is inapplicable.

Applicant also takes issue with the Examiner's Amendment adding a new heading above paragraph [0016] in the Specification entitled "Summary of Invention," in order to separate . Applicant asserts that this change is a substantive change made without Applicant's approval, and was made contrary to MPEP 1302.04. Applicant's provide a putative quote of MPEP 1302.04 as follows:

> "No Examiner's amendment, whether formal or informal, may make substantive changes to the written portions of the specification, including the abstract, without first obtaining applicant's approval."

Applicant avers that the MPEP 1302.04 prohibits an Examiner's Amendment that makes substantive changes to the written portion of the specification...without obtaining applicant's approval.

Applicant avers that no approval was obtained or even sought. Applicant's, with the filing of this petition, strenuously object to what Applicant's refer to as a misappropriation of authority to attempt to characterize portions of the disclosure as "prior art" which have not been so explicitly identified as such by Applicants.

Applicant's avers that the drawing or specification included a substantive deficiency, [and] the appropriate course of action was to issue an *Ex Parte Quayle* action.

Applicable Law, Rules and MPEP

The applicable statute, 35 U.S.C. § 133, Time for Prosecuting Application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the

[1] 35 U.S.C. § 151, Issue of patent, states

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter. Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned. Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.
> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

> application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This Office issued a Notice of Allowability on May 12, 2006,which stated:

> An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
>
> The application has been amended as follows:
>
> a) In the specification, page 3, above paragraph [0016], insert the heading "Summary Of The Invention" in order to separate what is admitted prior art and the applicant's invention.
>
> b) In FIG. 1 of the drawing insert the words "PRIOR ART" below the page.

(Emphasis supplied).

Analysis

Applicant seeks to conflate the two notices: the Notice of Allowance and issue Fee Due, and the Notice of Allowability, into one action under 35 U.S.C. 151. Applicant is advised that the Notice of Allowability is an action under 35 U.S.C. 133. The actions are separate and distinct. *See, Brenner v. Ebbert*, 398 F.2d 762, 157 USPQ 609 (D.C. Cir. 1968).

The Notice of Allowability was mailed to Applicant in accordance with 35 U.S.C. § 133, wherein Applicant was given 90 days to prosecute the application. Applicant received the Notice of Allowance and Issue Fee Due and the Notice of Allowability; however, Applicants chose to respond only to the Notice of Allowance and Issue Fee Due. As Applicants stated, Applicant's "did not file any new drawings." Petition at p.2. Applicant's thus failed to prosecute the application. As required in the applicable statute, the application "shall" be regarded as abandoned.

Regarding the Examiner's Amendment, the MPEP 1302.04, Examiner's Amendments and Changes, states:

> Except by formal examiner's amendment duly signed or as hereinafter provided, no corrections, erasures, or interlineations may be made in the body of written portions of the specification or any other paper filed in the application for patent. (See 37 CFR 1.121.)

The prohibition averred by Applicant, against substantive changes to the written portion of the specification, more correctly prohibits "corrections, erasures, or interlineations may be made in the body of written portions of the specification...."

Here, as stated by Applicant, the Examiner added a new heading. The Examiner made no change to the body of the written portion of the specification. Moreover, as previously stated, the Examiner expressly stated that "[s]hould the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312."

The MPEP provides,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Applicant admittedly filed no response to the Notice of Allowability. There is no dispute as to the status of the application. In accordance with 35 U.S.C. § 133, the application is abandoned. A petition to revive the application (and fee) is the appropriate course of action.

Regarding Applicant's assertion, that the drawing or specification included a substantive deficiency, [and] the appropriate course of action was to issue an *Ex Parte Quayle* action, as Applicant's stated, an *Ex Parte Quayle* action is issued to correct formal matters, as opposed to substantive matters.

Conclusion

The Examiner's Amendment was issued as part of the Notice of Allowability under 35 U.S.C. 133, and was not contrary to the MPEP 1302.04. Applicant failed to file a complete and proper reply to the Notice. The case is properly held abandoned. *Accord*, 37 CFR 1.135.

The petition to withdraw the holding of abandonment is dismissed.

The petition to revive under 37 CFR 1.137(b)

The Examiner has approved the drawing.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a corrected drawing[2]; (2) the petition fee; and (3) a proper statement of unintentional delay.

[2] Applicant's are advised that a complete and proper (including timely), reply to the Notice, as set forth in the Notice, must be corrected drawing(s).

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to Publishing Division for processing into a patent.

Derek L. Woods
Attorney
Office of Petitions

1712

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

SUGHRUE, MION ,ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3202

COPY MAILED
SEP 03 2004
OFFICE OF PETITIONS

In re Application of	:	
Shibato, et al.	:	
Application No. 10/784,792	:	ON PETITION
Filed: June 9, 2004	:	
Attorney Docket No. Q79832	:	

This is a decision on the papers styled, "Petition Under 37 CFR 1.17(h)," filed June 9, 2004, which has been treated as a petition requesting that the above-identified application be accorded a filing date of June 9, 2004.

The petition is **granted**.

The above-identified application was submitted on February 24, 2004. However, on May 18, 2004, a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) stating that the application had been accorded a filing date, and that Page 12 of the specification appears to have been omitted.

The Notice states (in pertinent part):

> II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s)(with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item(s), and a petition under 37 CFR 1.182 (with the $130.00 petition fee (37 CFR 1. 17(h)) requesting the later filing date must be filed within TWO MONTHS of the date of this Notice.

In response, on June 9, 2004, page 12 of the specification, a declaration and the present petition were filed. Petitioner states: "Since page no. 12 of the specification was included in the parent application no. 10/111,132, Applicants submit a copy

of the original Declaration and Power of Attorney along with the Petition Fee for $130.00 and *accept the later filing date*. The original Declaration and Power of Attorney applies to page 12 of the specification." (Emphasis supplied).

As stated in the Notice, and in view of the above, the application will be processed with a filing date of June 9, 2004, and will incorporate page 12 of the specification and the declaration, filed June 9, 2004.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of June 9, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

REED SMITH LLP
3110 FAIRVIEW PARK DRIVE
SUITE 1400
FALLS CHURCH, VA 22042

In re Application of: SUGINO, et al.
Application No. 10/784,796
Filed: February 24, 2004
For: STORAGE CONTROL SYSTEM STORING OPERATION INFORMATION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 26 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7026384	2006-04-11	10784799	2004-02-24	249190USMF

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin J. Spivak/	Date (YYYY-MM-DD)	2010-06-02
Name	Marvin J. Spivak	Registration Number	24913

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7026384
Issue Date: April 11,2006
Application No. 10784799
Filed: February 24,2004
Attorney Docket No. 249190US0DIV

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 2,2010 .
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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 10, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/784809 Patent No.: 7307762 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 571-273-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	All changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: /Kimberly Williams/

PAGE 1/2 * RCVD AT 7/21/2008 7:23:44 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/21 * DNIS:2709990 * CSID:703 308 5397 * DURATION (mm-ss):01-02

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

KAR

2625

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

COPY MAILED

NOV 2 3 2007

OFFICE OF PETITIONS

In re Application of Hockman et al. :
Application No. 10/784,812 :
Filing Date: February 24, 2004 :
Attorney Docket No. P07698US00/WEJ :

Decision on Petition

This is a decision on the petition filed May 22, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed**.

A final Office action was mailed October 12, 2006. The Office action set a shortened statutory period for reply of three (3) months.

Petitioner asserts the application is not abandoned because a reply and a request for a one-month extension of time were timely filed. Petitioner has submitted a date-stamped postcard receipt, indicating that a reply to the final Office action was received on January 31, 2007.

The original reply filed January 31, 2007, was not matched with the file and cannot be located. However, M.P.E.P. 503 states, "[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, it is concluded that the reply was timely filed in the Patent and Trademark Office but not matched with the application file.

The examiner has reviewed the reply and determined the reply failed to place the application in condition for allowance. A copy of a "draft" (unofficial) Advisory Action is attached as a courtesy.

Although the reply failed to place the application in condition for allowance, the application did not go abandoned for failure to file a proper response to the final Office action because a Notice of Appeal and a request for an extension of time of an additional two months were filed March 28, 2007.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an

appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 28, 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 1.192(b) & 1.197(c). As no claim was allowed, the-above-identified application became abandoned on May 30, 2007.[1] See MPEP 1215.04.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (an Appeal Brief or RCE), the required petition fee ($770 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A PDF "fillable" version of a form that can be used to file a petition under 37 CFR 1.137(b) can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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 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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Draft Advisory Action

[1] Monday, May 28, 2007, was a federal holiday. Therefore, an Appeal Brief could have been timely filed as late as May 29, 2007.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/784,812	HOCKMAN, MARK	
	Examiner	Art Unit	
	Jeanette E. Chapman	3633	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on *28 March 2007*. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/JEANETTE CHAPMAN/
PRIMARY EXAMINER
ART UNIT 3633

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive; applicant argues that pages 4-6 may be interpreted as "The spanning means and the means for connecting being located below the top of adjacent seams" and "the pipe mounted close to the surface of the base portion of the roof surface". The examiner does not agree and still finds the specification non-enabling for the recited claim language above. Regarding the double patenting rejection, it is clear that the examiner meant to state serial number 10/882,552; however in a subsequent paragraph of the the rejction, this serial number is made clear. the double patenting rejection involving the canceled claims of sn 10/898, 552 is obviously moot but a new double patenting rejection would obviously be drafted to include claims 1-6 of the present application and claims 9-13 of sn 10/898,552

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

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

COPY MAILED

FEB 2 1 2008

OFFICE OF PETITIONS

In re Application of Hockman et al. :
Application No. 10/784,812 :
Filing Date: February 24, 2004 :
Attorney Docket No. P07698US00/WEJ :

Decision on Petition

This is a decision in response to the letter filed on the petition filed November 28, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **granted**.

A final Office action was mailed October 12, 2006. The Office action set a shortened statutory period for reply of three (3) months. A Notice of Appeal and request for an extension of time were timely filed March 28, 2007. The Notice of Appeal was accompanied by a "Pre-Appeal Brief Request for Review." The Office has determined,

> [When a Pre-Appeal Brief Request for Review is filed,] the time period for filing an appeal brief will be reset to be one month from mailing of the decision on the request, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater.[1]

Since the Office has not mailed a decision on the request, the period to file an appeal brief has not expired and the application is not abandoned.

Technology Center Art Unit 3633 will be informed of the instant decision and the matter will be forwarded to the examiner for consideration of the Pre-Appeal Brief Request for Review.

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

[1] *New Pre-Appeal Brief Conference Program*, 1296 *Off. Gaz. Pat. Office* 67 (July 12, 2005).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

meb

Mailed: 12-12-06

In re application of	:	
Scherzer et al.	:	DECISION ON
Serial No. 10/784,815	:	PETITION
Filed: February 24, 2004	:	

For: OPEN-CELL FOAM COMPOSED OF HIGH-MELTING POINT PLASTICS

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed July 17, 2006.

On February 2, 2006, a non-final office action was mailed to applicants rejecting various claims, including claims 1, 3 and 4 over the cited Hoki reference. A reply to the office action was filed by Applicant on May 5, 2006. In the reply, Applicant made several amendments to the claims. One of these amendments was to incorporate limitations from original claims 3 and 4 into independent claim 1. On July 17, 2006, a final office action was mailed.

On October 17, 2006, the instant petition under 37 CFR 1.181 was filed to formally request the withdrawal of finality of the July 17, 2006 office action.

Applicants position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by Applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

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).

Petitioner argues that because amended claim 1 was merely incorporates limitations from original claims 3 and 4, which were rejected by the Hoki reference, the new grounds of rejection applied by the examiner to this claim and then made final were improper. This argument is persuasive. Claims 1, 3 and 4 were originally rejected over Hoki, as being anticipated, in the office action of February 2, 2006. Amended Claim 1 was then rejected over the newly cited reference to Mitsubishi in the final office action mailed July 17, 2006, and the Hoki reference was dropped. The limitations of amended claim 1, incorporating limitations of original claims 3 and 4, which according to the examiner in the non-final office action of February 2, 2006, where anticipated by the Hoki reference. If the Hoki

reference was appropriately applied to original claims 1, 3 and 4, then it should also have been appropriate to apply to amended claim 1, as amended by the reply of May 5, 2006. Since, the Hoki rejection was dropped in favor of Mitsubishi in the final office action of July 17, 2006, the amendment did not require the new grounds of rejection in the final office action.

Since the rejection of claim 1 over Mitsubishi was not necessitated by amendment, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. It is also noted that Applicants filed a timely amendment on October 17, 2006. This amendment will be treated as an amendment after a non-final office action and will be entered. The application is being forwarded to the Examiner for consideration of said amendment and appropriate action thereon.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael P. Byrne
Novak Druce DeLuca & Quigg, LLP
1300 Eye St., N.W.
400 East Tower
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 28 2005

OFFICE OF PETITIONS

VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

In re Patent No. 6,910,141	:	
Issued: June 21, 2005	:	
Application No. 10/784,835	:	PATENT TERM ADJUSTMENT
Filed: February 23, 2004	:	
Atty. Dkt. No.: P04461-D06	:	
(11461.00.0171	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed August 22, 2005. This matter is being properly treated under 37 CFR 1.704(d) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **GRANTED**.

The above-identified application matured into U.S. Patent No. 6,910,141 on June 21, 2005. The instant request for reconsideration was timely filed August 22, 2005 in accordance with 37 CFR 1.705(d). The patent issued with zero days of PTA. Applicants argue that the correct PTA is three days and further assert that the reduction of 100 days for a "miscellaneous incoming letter" on March 14, 2005 was in error.

A review of the application history reveals that the correct adjustment at the time of issuance of the patent was zero days.

In accordance with 37 CFR 1.702(a)(2), an adjustment of 43 days can be attributed to the Office for failure to respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply occurred.

The adjustment of three days is reduced a total of 40 days in accordance with 37 CFR 1.704(c)(8) for applicants' failure to engage in reasonable efforts to conclude prosecution. The adjustment began August 21, 2004, the day after the date that a reply to the non-final Office action was submitted, and ended September 29, 2004, the date the supplemental response (IDS) was filed.

Applicants are correct, however, in that the entry of a reduction of 100 days in connection with applicants' submission on March 14, 2005 was in error. It is noted for the record that the March 14, 2005 submission was in fact applicants' good faith and candor comments to the Office regarding the PTA indicated in the Determination of Patent Term Adjustment mailed February 1, 2005.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of three days.

Receipt of the required $200.00 application fee is hereby acknowledged.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by three days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3202.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

Day : Tuesday
Date: 9/27/2005

PALM INTRANET

Time: 11:39:49

PTA Calculations for Application: 10/784835			
Application Filing Date:	02/23/2004	PTO Delay (PTO):	43
Issue Date of Patent:	06/21/2005	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	140
Post-Issue Petitions:	0	Total PTA (days):	3
PTO Delay Adjustment:	100		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
47	09/27/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	100		
42	06/21/2005	PATENT ISSUE DATE USED IN PTA CALCULATION			
41	05/24/2005	RECEIPT INTO PUBS			
40	05/23/2005	DISPATCH TO FDC			
39	05/23/2005	APPLICATION IS CONSIDERED READY FOR ISSUE			
38	04/26/2005	ISSUE FEE PAYMENT VERIFIED			
37	03/14/2005	MISCELLANEOUS INCOMING LETTER		100	
36	04/28/2005	RECEIPT INTO PUBS			
35	04/26/2005	ISSUE FEE PAYMENT RECEIVED			
33	03/08/2005	WORKFLOW - FILE SENT TO CONTRACTOR			
32	02/08/2005	EXPORT TO INITIAL DATA CAPTURE			
31	02/01/2005	MAIL NOTICE OF ALLOWANCE	43		19
30	02/01/2005	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - NOT ACCEPTED			
29	02/01/2005	MAIL NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
28	01/31/2005	ISSUE REVISION COMPLETED			
27	01/31/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	01/31/2005	NOTICE OF ALLOWABILITY			
25	01/24/2005	PARALEGAL TD ACCEPTED			
24	01/24/2005	NOTIFICATION OF TERMINAL DISCLAIMER - ACCEPTED			
23	01/11/2005	PARALEGAL TD NOT ACCEPTED			
22	01/11/2005	NOTIFICATION OF TERMINAL DISCLAIMER - NOT ACCEPTED			

21	08/20/2004	TERMINAL DISCLAIMER FILED			
20	11/24/2004	DATE FORWARDED TO EXAMINER			
19	08/20/2004	RESPONSE AFTER NON-FINAL ACTION			
18	09/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		40	19
17	08/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
16	07/13/2004	MAIL NON-FINAL REJECTION			
15	07/12/2004	NON-FINAL REJECTION			
14	06/08/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	06/07/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	02/23/2004	PRELIMINARY AMENDMENT			
11	02/23/2004	REFERENCE CAPTURE ON IDS			
10	02/23/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	06/07/2004	CASE DOCKETED TO EXAMINER IN GAU			
8	05/17/2004	APPLICATION RETURN FROM OIPE			
7	05/17/2004	APPLICATION RETURN TO OIPE			
6	05/17/2004	APPLICATION DISPATCHED FROM OIPE			
5	05/17/2004	APPLICATION IS NOW COMPLETE			
4	03/25/2004	CLEARED BY OIPE CSR			
3	03/25/2004	CASE CLASSIFIED BY L&R			
2	03/09/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

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 : October 24, 2007

Patent No. : 7197967 B2
Application No : 10/784841
Inventor(s) : Crawford
Issued : Apr. 3, 2007
Title : **LOCKNUT PLIERS**
Docket No. : CHANN.P002

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 02-07

Paper No: __

WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD CT 06905

COPY MAILED

MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Walker, et al. :
Application No. 10/784,845 : ON PETITION
Filed: 23 February, 2004 :
Attorney Docket No. 03-011 :

This is a decision on the petition filed on 23 February, 2004, under 37 C.F.R. §1.47(a).

The Office regrets the delay in addressing this matter, however, the petition was provided to the attorneys in the Office of Petitions only at this writing. **Nonetheless, Petitioner is reminded that it is Petitioner's responsibility to be attentive to outstanding matters, and the docketing of Status Inquiries at three- or four-month intervals may well prevent delays such as this.**

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 23 February, 2004, without, *inter alia*, a fully executed oath/declaration;

- and the Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- the lack of a mailing is attributable to the fact that contemporaneously with the filing of the application on 23 February, 2004, Petitioner Steven M. Santisi (Reg. No. 40,157) filed, *inter alia*, the original petition, an oath/declaration signed by Messrs. Walker, Jorasch, Gelman, Tedesco and Santisi for themselves and on behalf of non-signing co-inventor Victor M Garcia (Mr. Garcia), and Petitioner averred that Mr. Garcia had refused to join in the signing of the oath/declaration, however, Petitioner failed to make any showing by Petitioner satisfying the statutory and regulatory requirement that the entire application (description, claims, abstract and drawings) be provided to the non-signing inventor Mr. Garcia, and there is no copy of a transmittal letter evidencing such an event or of the evidence of a diligent effort to ascertain a current/reasonably believed to be last known mailing address, and Petitioner must satisfy these requirements and any others as set forth above and discussed below.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension,

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

---

modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.
>
> REFUSAL TO JOIN
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not

been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof 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 nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[2])

CONCLUSION

The record as it stands is deficient as to document support for the averment of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least reasonably last-known/ascertainable) addresses. The evidence of these requirements (*inter alia*, a copy of the transmittal letter) should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[3]

By mail: Commissioner for Patents[4]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[2] See: MPEP 409.03(b).

[3] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf.)

[4] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[10] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 12-07

Paper No: __

WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD CT 06905

COPY MAILED
DEC 10 2007
OFFICE OF PETITIONS

In re Application of :
Walker, et al. :
Application No. 10/784,845 :
Filed: 23 February, 2004 :
Attorney Docket No. 03-011 :

ON PETITION

This is a decision on the petition filed on 4 June, 2007, under 37 C.F.R. §1.47(a).

The Office regrets the delay in addressing this matter, however, the petition was provided to the attorneys in the Office of Petitions only at this writing.

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 23 February, 2004, without, *inter alia*, a fully executed oath/declaration;
- and the Office did not mail a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;
- the lack of a mailing was attributable to the fact that contemporaneously with the filing of the application on 23 February, 2004, Petitioner Steven M. Santisi (Reg. No. 40,157) filed, *inter alia*, the original petition, an oath/declaration signed by Messrs. Walker, Jorasch, Gelman, Tedesco and Santisi for themselves and on behalf of non-signing co-inventor Victor M Garcia (Mr. Garcia), and Petitioner averred that Mr. Garcia had refused

to join in the signing of the oath/declaration, however, Petitioner failed to make any showing by Petitioner satisfying the statutory and regulatory requirement that the entire application (description, claims, abstract and drawings) be provided to the non-signing inventor Mr. Garcia, and there was no copy of a transmittal letter evidencing such an event or of the evidence of a diligent effort to ascertain a current/reasonably believed to be last known mailing address, and the petition was dismissed on 2 March, 2007;

- the instant petition with request and fee for extension of time seeks to overcome these deficiencies with a showing by Petitioner satisfying the statutory and regulatory requirement that the entire application (description, claims, abstract and drawings) be provided to the non-signing inventor Mr. Garcia, with a copy of a transmittal letter evidencing such an event and of the evidence of a diligent effort to ascertain a current/reasonably believed to be last known mailing address.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

This application and its papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 12-07

Paper No: __

VICTOR M. GARCIA
315 WILLOW ST.
NEW HAVEN, CT 06511

COPY MAILED

DEC 10 2007

OFFICE OF PETITIONS

In re Application of :
Walker, et al. :
Application No. 10/784,845 : COMMUNICATION
Filed: 23 February, 2004 :
Attorney Docket No. 03-011 :

Dear Victor M. Garcia:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD CT 06905

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOEKENDIJK & LYNCH, LLP
P.O. BOX 4787
BURLINGAME, CA 94011-4787

COPY MAILED

SEP 03 2009

OFFICE OF PETITIONS

In re Application of :
Gilbert S. Laroya, et al. :
Application No. 10/784,861 : DECISION ON PETITION
Filed: February 23, 2004 :
Attorney Docket No. 002-C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

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.

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.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 22, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

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 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 3736 for appropriate action by the Examiner in the normal course of business on the reply received July 8, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

cc: KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

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

NORTEL NETWORKS LIMITED
3500 CARLING AVENUE
OTTAWA ON K2H 8E9 CA CANADA

RECEIVED
DEC 29 2008
OFFICE OF PETITIONS

In re Application of	:	
John H. Yoakum, et al.	:	
Application No. 10/784,865	:	DECISION DISMISSING PETITION
Filed: February 23, 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 December 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until December 23, 2008. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be electronically filed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHUTTS & BOWEN, L.L.P.
100 S. ASHLEY DRIVE, SUITE 1500
TAMPA, FL 33602

COPY MAILED

AUG 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Fink et al.	:	
Application No. 10/784,867	:	DECISION ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 29154.0001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 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 Restriction Requirement, mailed December 27, 2007, 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 filed. Accordingly, the application became abandoned on January 28, 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 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 statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

The address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571)272-7751.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Joseph R. Englander
200 E. Broward Blvd., Suite 2100
Fort Lauderdale, FL 33301

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

KRATZ, QUINTOS & HANSON, LLP
1420 K Street, N.W.
Suite 400
WASHINGTON, DC 20005

COPY MAILED

SEP 25 2007

OFFICE OF PETITIONS

In re Application of

Chiba, et al.:

Application No. 10/784,876

Filed: February 24, 2004

Attorney Docket No. 990773A

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August 30, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed April, 20, 2007. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on August 16, 2007.

The issue fee was received on August 30, 2007.

Form PTOL-85B, filed August 30, 2007, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

COPY MAILED
AUG 1 8 2004
OFFICE OF PETITIONS

In re Application of :
Fukuda, et al. :
Application No. 10/784,877 : ON PETITION
Filed: February 24, 2004 :
Attorney Docket No. 9694D-000002/US :

This is a decision on the papers styled, "Petition Under 37 CFR 1.181," filed July 19, 2004, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of February 24, 2004, including Figure 11C as described in the specification.

The application was filed on February 24, 2004. However, on May 18, 2004, the Office of Initial Patent Application mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but Figure 11C as described in the specification appears to have been omitted.

In response, on July 19, 2004, the instant petition was submitted. Petitioner asserts that Figure 11C was submitted with the original drawings. Petitioner states, "Applicants note that Fig. 11(c) is provided on the same drawing sheet as Figs. 11A-11B. To be more consistent with the written description, Applicants enclose a replacement sheet of drawings in which Fig. 11(c) is relabeled as Fig. 11C. This specific drawing change does not introduce any prohibitive new matter."

A review of the originally filed drawings indicates the presence of Figure 11C, albeit mislabeled as only "(c)".

In view of the above, it appears that the drawing of Figure 11C was present on February 24, 2004, but mislabeled by applicants as "(c)" rather than "Fig. 11C". Since it is now clear that Figure 11C was present on February 24, 2004, albeit mislabeled, the

Figure may be considered as filed with the application on February 24, 2004.

The petition is granted.

Please note, the $130.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of February 24, 2004, and using the replacement drawing containing Figure 11C, submitted on July 19, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

COPY MAILED

AUG 0 6 2007

OFFICE OF PETITIONS

In re Patent No. 7,126,525 :
Issued: October 24, 2006 :
Application No. 10/784,882 : ON PETITION
Filed: February 24, 2004 :
Attorney Docket Number: **056203.53286US** :

This is a decision on the petition filed May 14, 2007 to correct the name of the assignee on the front page of the Letters Patent, which is being treated under 37 CFR 3.81(b)[1].

The petition is **GRANTED**.

Petitioner states that the assignee is HITACHI, LTD. and that the failure to include the correct assignee name on the Fee(s) Transmittal form PTOL-85(b) was due to a clerical error on the part of the applicant. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request is accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that HITACHI, LTD. is the assignee

---

[1] *See* Official Gazette of June 22, 2004

of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

COPY MAILED
AUG 03 2004
OFFICE OF PETITIONS

In re Application of	:	
Tang, et al.	:	
Application No. 10/784,917	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. 034536-1150	:	

This is a decision on the petition under 37 CFR 1.182, filed June 17, 2004, to supply omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application.

The application was submitted on February 24, 2004. However, on May 18, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and that Figure(s) 2 (sheet 6 of 30), as described in the specification, appear to have been omitted. The Notice also stated the filing date would be the date of receipt of the omitted Figure.

In response, on June 17, 2004, the instant petition was submitted. Petitioner states, "transmitted herewith is Figure 2, Sheet 6 of 30 which was inadvertently omitted with the filing of the above-identified application." However, a review of the papers filed on June 17, 2004 does not indicate the submission of Figure 2, Sheet 6 of 30, as this sheet of drawings cannot be located in the application file.

As such, at the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

The application retains its current filing date of February 24, 2004, using the Figures filed on that date.

Telephone inquiries should be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

COPY MAILED

NOV 09 2004

OFFICE OF PETITIONS

In re Application of	:	
Tang, et al.	:	
Application No. 10/784,917	:	ON PETITION
Filed: June 17, 2004	:	
Attorney Docket No. 034536-1150	:	

This is a decision on the request for reconsideration of petition under 37 CFR 1.182, filed October 4, 2004, to supply omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application.

The application was submitted on February 24, 2004. However, on May 18, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice To File Missing Parts Of Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, and that Figure(s) 2 (sheet 6 of 30), as described in the specification, appear to have been omitted. The Notice also stated the filing date would be the date of receipt of the omitted Figure.

In response, on June 17, 2004, the original petition was submitted. Petitioner stated, "transmitted herewith is Figure 2, Sheet 6 of 30 which was inadvertently omitted with the filing of the above-identified application." The Figure was, in fact, received by the Office on June 17, 2004, as indicated by the postcard receipt, submitted on October 4, 2004.[1]

---

[1] It is noted that petitioner states, "Figure 2, Sheet 6 of 30 was originally filed with the U.S. Patent & Trademark Office in parent application Serial No. 08/915,366, filed 08/20/1997, and, therefore, a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to said sheet is not required. No new matter has been added to Figure 2, Sheet 6 of 30."

The petition is granted. As stated in the Notice, and in view of the above, the application will be processed with a filing date of June 17, 2004, the date of submission of the omitted item.

This application is being forwarded to the Office of Initial Patent Examination for issuance of a corrected filing receipt with a filing date of June 17, 2004.

Telephone inquiries should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
3000 K ST NW
SUITE 500
WASHINGTON DC 20007

COPY MAILED

MAR 0 5 2007

OFFICE OF PETITIONS

In re	:
Tang, et al.	: DECISION REGARDING
Application No. 10/784,917	: PATENT TERM ADJUSTMENT
Filed: February 24, 2004	:
Attorney Docket No. 034536-1150	:

This decision is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed November 27, 2006, requesting correction of the patent term adjustment (PTA) indicated on the patent.

The request is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **zero (0) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 20, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is fifty-one (51) days. On November 27, 2006, applicants submitted the instant "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", stating that in accordance with their duty of candor and good faith, the 51 days of PTA appears to extend the patent term by too many days.

The Office determined a patent term adjustment of fifty-one (51) days based on an adjustment for PTO delay of fifty-one (51) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by zero (0) days of applicant delay.

A review of the application reveals that applicants should have been accorded one hundred nine (109) days of delay pursuant to 37 C.F.R. § 1.704(c)(7). On June 17, 2004, applicants filed a petition under 37 C.F.R. § 1.182 to supply a missing drawing figure and accept the date it was filed as the filing date of the application. However, the petition was dismissed in a decision mailed on August 3, 2004, because applicants failed to supply the Office with a copy of the missing drawing figure with their petition. Applicants filed a request for reconsideration and supplied the missing figure on October 4, 2004. Accordingly, under § 1.704(c)(7), applicants should have been assessed delay of one hundred nine (109) days.

In addition, applicants should have been assessed delay of sixty-two (62) days under 37 C.F.R. § 1.704(b). The Office mailed a final Office action on April 6, 2006. Applicants did not file a proper reply until September 6, 2006. Accordingly, sixty-two (62) days of applicant delay should have been assessed.

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** (51 days of PTO delay, reduced by 171 days of applicant delay), subject to any terminal disclaimer.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

PALM INTRANET

Day : Friday
Date: 3/2/2007
Time: 17:50:00

PTA Calculations for Application: 10/784917			
Application Filing Date:	02/24/2004	PTO Delay (PTO):	51
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-171		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		109	
74	03/02/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		62	
67	09/20/2006	MAIL NOTICE OF ALLOWANCE			
66	09/18/2006	ISSUE REVISION COMPLETED			
65	09/18/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	09/18/2006	NOTICE OF ALLOWABILITY			
63	09/12/2006	DATE FORWARDED TO EXAMINER			
62	09/06/2006	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
61	09/06/2006	NOTICE OF APPEAL FILED			
60	09/06/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
59	07/20/2006	MAIL ADVISORY ACTION (PTOL - 303)			
58	07/18/2006	ADVISORY ACTION (PTOL-303)			
57	07/12/2006	DATE FORWARDED TO EXAMINER			
56	07/06/2006	AMENDMENT AFTER FINAL REJECTION			
55	04/06/2006	MAIL FINAL REJECTION (PTOL - 326)			
54	04/03/2006	FINAL REJECTION			
53	01/12/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	01/12/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	50
51	01/27/2006	DATE FORWARDED TO EXAMINER			
50	01/12/2006	RESPONSE AFTER NON-FINAL ACTION			
49	10/12/2005	MAIL NON-FINAL REJECTION			
47	10/03/2005	NON-FINAL REJECTION			
46	05/05/2004	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
45	02/24/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	07/26/2005	DATE FORWARDED TO EXAMINER			
43	07/14/2005	RESPONSE TO ELECTION / RESTRICTION FILED			
42	06/14/2005	MAIL RESTRICTION REQUIREMENT	51		-1
41	06/10/2005	REQUIREMENT FOR RESTRICTION / ELECTION			
40	11/09/2004	PETITION DECISION - GRANTED			
39	10/04/2004	PETITION ENTERED			
37	10/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
36	10/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
35	05/05/2004	REFERENCE CAPTURE ON IDS			
34	02/24/2004	REFERENCE CAPTURE ON IDS			
33	06/17/2004	PRELIMINARY AMENDMENT			
32	05/05/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	02/24/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	08/24/2004	APPLICATION RETURN FROM OIPE			
29	08/24/2004	APPLICATION RETURN TO OIPE			
28	08/24/2004	APPLICATION RETURN FROM OIPE			
27	08/24/2004	APPLICATION IS NOW COMPLETE			
26	06/17/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
25	06/17/2004	APPLICANT HAS SUBMITTED A NEW SPECIFICATION TO CORRECT CORRECTED PAPERS PROBLEMS			
24	08/24/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
23	08/24/2004	APPLICATION RETURN TO OIPE			
22	08/24/2004	APPLICATION RETURN FROM OIPE			
21	08/24/2004	APPLICATION IS NOW COMPLETE			
20	06/17/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
18	08/03/2004	PETITION DECISION - DISMISSED			
17	06/17/2004	PETITION ENTERED			
16	07/22/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
15	07/22/2004	APPLICATION RETURN TO OIPE			
14	07/22/2004	APPLICATION DISPATCHED FROM OIPE			

13	07/22/2004	APPLICATION IS NOW COMPLETE			
11	02/24/2004	CLAIM PRELIMINARY AMENDMENT			
8	05/18/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	04/06/2004	CLEARED BY L&R (LARS)			
4	03/26/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	03/26/2004	CASE CLASSIFIED BY L&R			
2	03/09/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/24/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back use Back button on your browser toolbar.

Back to PALM | ASSIGNMENT | OASIS | Home page

SIE: D. Gray

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/5/07

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/784,936 Patent No.: 7162173

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: approved RB 7/27/2007

DAVID M. GRAY
SUPERVISORY PATENT EXAMINER

SPE

2852
Art Unit

03500.018006 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	)	
	:	Examiner: Robert B. Beatty
SATORU MTOHASHI, ET AL.	)	
	:	Group Art Unit: 2852
Appl. No.: 10/784,936	)	
	:	Confirmation No.: 9545
Filed: February 25, 2004	)	
	:	
For: IMAGE FORMING APPARATUS USING AN ORDERED SET OF FIRST, SECOND AND CHARGING AC PEAK-TO-PEAK VOLTAGES	) :)	
	:	
U.S. Patent No.: 7,162,173 B2	)	
	:	
Issued: January 9, 2007	)	June 13, 2007

approved
NB
7/27/07

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER RULES 322 AND 323

Sir:

It is respectfully requested that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of Patent and Trademark Office mistakes, and mistakes of a clerical, typographical, or minor character, which were not the fault of the Patent and Trademark Office. A Certificate of Correction form (Form PTO-1050) is enclosed.

The correction in Claim 2 attends to a transcription error regarding the word "when". The corrections in Claim 8 and 9 attend to typographical errors.

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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED

AUG 01 2007

OFFICE OF PETITIONS

In re Application of	:	
STOLARZ, ALEX et al.	:	
Application No. 10/784,946	:	DECISION ON PETITION
Filed: February 25, 2004	:	TO WITHDRAW
Attorney Docket No. **08130.0096**	:	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, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Finnegan, Henderson, Farabow, Garrett & Dunner LLP has been revoked by the assignee of the patent application on June 05, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SUGHRUE MION, PLLC**
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

COPY MAILED
DEC 07 2007
OFFICE OF PETITIONS

In re Application of
Akishige Nakajima, et. al.
Application No. 10/784,988
Filed: February 25, 2004
Attorney Docket No. 501.43334X00

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2007, to revive the above-identified application.

The application became abandoned for failure to reply to the non-final Office action mailed May 3, 2006. A Notice of Abandonment was mailed on November 13, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of a continuation application; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/541,606.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

SEP 2 8 2005

Technology Center 2100

In re Application of:
Akira FUJIBAYASHI
Application No. 10/784,994
Filed: February 25, 2004
For: METHOD AND APPARATUS FOR MANAGING DIRECT I/O TO STORAGE SYSTEMS IN VIRTUALIZATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on August 4, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of August 4, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

JUL 2 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL RD., SUITE 370
ALEXANDRIA, VIRGINIA 22314

In re Application of: IDO, et al.
Application No. 10/784,999
Filed: February 25, 2004
For: STORAGE SYSTEM, BACKUP SYSTEM AND BACKUP METHOD

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed June 23, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed June 23, 2005 fails to adequately meet requirements (e) of the criteria set forth above. With respect to requirement (e), applicant failed to provide a detailed discussion on how the claimed subject matter is patentable distinct over the (US 2004/0073675 Honma et al.) and (US 2004/0078419 Ferrari et al.) references. The statement provided in the petition (i.e. "all other references uncovered by the search and cited in the IDS even date are not treated in detail herein") is not sufficient to meet requirement (e) above.

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. In the instant petition, applicant cited Honma et al., US #2004/0073675; however, the IDSs of record does not contain the Honma et al. reference.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

7/18/05

AWK

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

NOV - 8 2005

Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: IDO, et al.
Application No. 10/784,999
Filed: February 25, 2004
For: STORAGE SYSTEM, BACKUP SYSTEM AND BACKUP METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 30 August 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 23 June 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicants' submission filed 30 August 2005 corrects the deficiency noted in the original decision. The combined submissions meet all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

SEP 2 8 2005

Technology Center 2100

In re Application of:
Akira FUJIBAYASHI
Application No. 10/785,002
Filed: February 25, 2004
For: METHOD AND APPARATUS FOR RE-SYNCHRONIZING MIRRORING PAIR WITH DATA CONSISTENCY

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on August 4, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of August 4, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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 H. Voorhees
Merek Blackmon & Vorhees
673 South Washington Street
Alexandria VA 22314

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Restivo, et al.	:	
Filed: February 25, 2004	:	ON PETITION
Application No. 10/785,023	:	
Atty. Dkt. No.: C2DIV001.14	:	

This decision is in response to the "PETITION TO ASSIGN FILING DATE" filed September 8, 2005 in response to the Notice of Incomplete Nonprovisional Application (Notice) mailed July 8, 2005.

The application was filed February 25, 2004. The Notice indicated that the application had not been accorded a filing date because the application appeared to have been submitted without drawings as prescribed by 35 USC 113.

In response, petitioners argue that the application as deposited included one drawing sheet. Petitioners have included as proof of mailing and proof of receipt of the specification a return postcard date stamped by the Office on February 25, 2004.

The original drawing sheet submitted with the application papers has not been located. However, in view of the evidence presented, the petition to accord the application a filing date of February 25, 2004 is GRANTED.

Since the original drawing sheet cannot be located in the Office, a copy submitted herewith will be used for examination purposes.

No petition fee is due in connection with this matter. Petitioners may request a refund of the previously submitted $400.00 petition fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 25, 2004 with one drawing sheet as part of the record.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTOPHER J. MCDONALD, ESQ.
HOFFMAN, WASSON & GITLER, PC
SUITE 522 - CRYSTAL CENTER 2
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202

COPY MAILED

MAR 0 7 2008

OFFICE OF PETITIONS

In re Application of
Jerry L. Blevins
Application No. 10/785,024
Filed: February 25, 2004
Attorney Docket No. A-7014.CIP

ON PETITION

This is a decision in response to the petition, filed October 26, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 19, 2007. A Notice of Abandonment was mailed on September 26, 2007. In response, on October 26, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3671 for consideration of the amendment filed October 26, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

STANLEY P. FISHER
REED SMITH LLP
3110 FAIRVIEW PARK DRIVE, SUITE 1400
FALL CHURCH, VA 22042-4503

COPY MAILED

APR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Akira Date et al	:	
Application No. 10/785,048	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. ASAM.0114	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 29, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 30, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2454 for a decision on the Request for Suspension (37 CFR 1.103).

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

SANDU MARGARIT SMARANDACHE
55 BRISTOL ROAD EAST, UNIT 98
MISSISSAUGA ON L4Z 3N9 CA CANADA

COPY MAILED

MAR 29 2005

OFFICE OF PETITIONS

In re Application of :
Sandu Margarit Smarandache :
Application No. 10/785,058 :
Filed: February 25, 2004 :
Attorney Docket No. 93217-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed March 21, 2005, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(b) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extension 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 above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Non-provisional Application mailed May 18, 2004, which set a period for reply of two (2) months from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on July 18, 2004. A Notice of Abandonment was mailed on February 9, 2005.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

---

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The instant petition lacks items (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

---

[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner argues that the inventor did not intend for the application to become abandoned, but was restricted by the attorney of record at the time from reviewing the application file contents.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reason petitioner's argument must necessarily fail are addressed below.

The record reflects that the Notice to File Missing Parts of Nonprovisional Application Papers was properly mailed to the address of record at the time, and there is no argument made that the notice was not timely received. Accordingly, the inventor's alleged lack of access to the Notice to File Missing Parts of Non-provisional Application cannot be considered a cause for unavoidable delay.

Further, as a matter of course, disputes as to whether or not the assignee of an application will allow the inventor access to the application file will not be addressed by the Office absent a request made pursuant to 37 CFR 1.4(c) to restrict the inventor from accessing the application. A review of the application file did not reveal that an assignment was recorded for this application, nor did it reveal a request pursuant to 37 CFR 1.4(c). The inventor, therefore, had the ability to contact the Office and inquire as to the status of the application and to make changes to the power of attorney, if necessary. Petitioner's failure to exercise this option cannot be considered a cause for unavoidable delay, accordingly.

It is also noted that if there is an assignee that was directing the prosecution of this application at the time of the abandonment, 37 CFR 1.137(a) requires that the actions of all relevant parties, including the assignee, be considered in determining whether the delay in prosecuting the application was unavoidable. Accordingly, the Office would be charged with examining the actions of the assignee relative to the abandonment of the application to determine whether the assignee acted reasonably and prudently in prosecuting the application. Petitioner provides little details other than to say that the purported assignee decided to abandoned the application. If the purported assignee intended to abandon the application, any petition under 37 CFR 1.137(a) or (b) would dismissed, as a matter of law. Petitioner is, therefore, cautioned to ascertain the exact

---

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's 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.

circumstances of the purported assignee's abandonment of the application as this will have a direct impact on the disposition of any renewed petition under 37 CFR 1.137(a) or a petition under 37 CFR 1.137(b).

Petitioner may file a petition to revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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

SANDU MARGARIT SMARANDACHE
55 BRISTOL ROAD EAST, UNIT 98
MISSISSAUGA ON L4Z 3N9 CA CANADA

COPY MAILED

JUN 13 2005

OFFICE OF PETITIONS

In re Application of :
Sandu Margarit Smarandache :
Application No. 10/785,058 :
Filed: February 25, 2004 :
Attorney Docket No. 93217-1

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed April 23, 2005.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to reply to the Notice to File Missing Parts of Non-provisional Application mailed May 18, 2004, which set a period for reply of two (2) months from its mailing date. Extensions of time for reply pursuant to 37 CFR 1.136(a) was available. A proper response was not received within the allowed period, and the application became abandoned on July 18, 2004. A Notice of Abandonment was mailed on February 9, 2005.

The declaration filed March 21, 2005, is noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED
JUN 0 7 2006
OFFICE OF PETITIONS

In re Application of	:	
Jim Threlkeld et al	:	
Application No. 10/785,060	:	DECISION ON PETITION
Filed: February 25, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 248993US23	:	37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 9, 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 petition includes a statement by Nathaniel H. Kolmes attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 application is being referred to Technology Center AU 1615 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/28/2010

Applicant	: Thomas Mohr	: DECISION ON REQUEST FOR
Patent Number	: 7630322	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/785,098	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

COPY MAILED

MAY 0 3 2005

OFFICE OF PETITIONS

In re Application of
Goto et al.
Application No. 10/785,109
Filed: February 25, 2004
For: NOVEL PROTEINS AND METHODS FOR PRODUCING THE PROTEINS
Attorney Docket No: 16991.017
Pub. No.: US 2004/0142426 A1
Pub. Date: July 22, 2004

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 22, 2004 for the above-identified application.

The request is DISMISSED.

Applicant request that the application be republished because the patent application publication contains a material error, because the sequence listing submitted with the application as filed is missing from the publication.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1] The instant request does not identify a material mistake in the publication made by the Office:

The error is not a material mistake because the application is a Continuation of U.S. Application No. 10/232,858, which is both patented and published as a pre-grant publication, and which is incorporated by reference. Since, the parent application is now patented and published, and contains the information printed correctly, the errors do not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

applicant may seek to enforce upon issuance of a patent. The error also does not affect the use of the patent application publication as a prior art reference, because the continuity data is correctly published and the patent has the best date as a reference. Furthermore, this is not a material error since the Image File Wrapper (IFW) for this application is available to the public, as of July 31, 2004.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of this decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: 703-872-9306

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

COPY MAILED

FEB 13 2007

OFFICE OF PETITIONS

In re Application of	:	
HASVOLD et al	:	
Application No.: 10/785,120	:	DECISION ON PETITION
Filing Date: February 25, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: 7034US02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 2, 2006, which set a three (3) month period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 3, 2006.

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment 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 was unintentional, and (4) a terminal disclaimer if the application was filed before June 8, 1995.

The instant petition does not satisfy requirement (1) above. Specifically, the proposed response would not place the cased in condition for allowance. See the attached Advisory Action (Form PTOL-303).

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop 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 Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Advisory Action (Form PTOL-303)

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/785,120	HASVOLD ET AL.	
	Examiner	Art Unit	
	Bruck Kifle, Ph.D.	1624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *further searching is required*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Bruck Kifle, Ph.D.
Primary Examiner
Art Unit: 1624

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 12 2009

OFFICE OF PETITIONS

In re Patent No. 7,478,460	: DECISION ON
Issue Date: 01/20/2009	: APPLICATION FOR
Application No. 10/785133	: PATENT TERM ADJUSTMENT
Filed: 02/24/2004	: UNDER 37 CFR 1.705(d)
Attorney Docket No.	:
05918-0324001 / VGCP- No. 7020	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed March 10, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 366 days to 524 days.

The request for reconsideration patent term adjustment is **DISMISSED**.

On January 20, 2009, the above-identified application matured into U.S. Patent No. 7,478,460 with a patent term adjustment of 366 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 409 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 294 days overlap for a period of 137 days only.

The 409-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 24, 2004, and a request for continued examination (RCE) having been filed in this application on April 8, 2008, three years and 409 days later. Patentees assert that in addition to this 409-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 294 days. This 294-day period is the result of a period of delay of 149 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 application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1), and a period of delay of 145 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months

after the date on which the reply was filed. Patentees provide that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 409 days and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 294 days overlap for a period of 137 days only; the period of overlap deemed by patentee to run from February 25, 2007, to July 11, 2007.

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.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (409 days) and the period of Examination Delay (294 days) to the extent that these periods of delay are not overlapping. Patentees contend that the Three Year Delay period overlaps with the period of examination delay by 137 days only. Accordingly, patentees submit that the total period of adjustment for Office delay is 566 days, which is the sum of the period of Three Year Delay (409 days) and the period of Examination Delay (294 days), reduced by the period of overlap (137 days). As such, patentees assert entitlement to a patent term adjustment of 524[1] days (409 days + 294 days reduced by 137 days overlap – 43 days (applicant delay)).

The Office agrees that as of the filing of the RCE on April 8, 2008, the application was pending three years and 409 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 294 days is correct. At issue is whether patentees should accrue 409 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 294 days for Office failure to take a certain action within a specified time frame (or examination delay), less overlap as calculated by Patentees.

The Office contends, however, that the 294 days of examination delay overlap with 409 days of delay in issuance of the patent. 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:

[1] Patentee's incorrectly conclude that 566 days reduced by 43 days is 524 days, as opposed to 523 days.

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in

corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

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, February 24, 2004, as terminated by the filing of the RCE on April 8, 2008. Prior to the issuance of the patent, 294 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 294 days for Office examination delay overlap with the 409 days of Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 409 days, not 409 days + 294 days. The Office took 14 months and 149 days to issue a first Office action, and four months and 145 days to respond to a reply under 35 U.S.C. 132. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 294 days of Office 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 409 days. Accordingly, 409 days of patent term adjustment was properly entered because the 294 days attributable to grounds specified in § 1.702(a) overlaps with the period of delay of 409 days attributable to the delay in the issuance of the patent.

---

[2] 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 accorded an overall adjustment of 366 days (409 days of Office delay less 43 days of applicant delay).

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia M. Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 31 2010

OFFICE OF PETITIONS

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,478,460	: DECISION ON RESPONSE
Gallant et al.	: TO DECISION ON REQUEST
Issue Date: 01/20/2009	: FOR RECONSIDERATION OF
Application No. 10/785133	: PATENT TERM ADJUSTMENT
Filed: 02/24/2004	: and
Attorney Docket No.	: NOTICE OF INTENT TO ISSUE
05918-0324001 / VGCP- No. 7020	: CERTIFICAE OF CORRECTION

This is a decision on the renewed 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 five hundred twenty-four (524) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-four (524) 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 25, 2007 and ends on April 7, 2008, the day before the RCE was filed, and is 136 (not 137) days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 522, not 524 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred twenty-two (522)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,478,460 B2

DATED : **January 20, 2009**

INVENTOR(S) : Gallant 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 366 days.

Delete the phrase "by 366 days" and insert – by 522 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIJ K. AGARWAL
ECKERT SEAMANS CHERIN & MELLOTT, LLC
44TH FLOOR
600 GRANT STREET
PITTSBURGH, PA 15219

MAIL

JUL 22 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
George B. Bumiller
Application No. 10/785,134
Filed: February 24, 2004
For: **HANDHELD ELECTRONIC DEVICE HAVING FACILITATED INPUT AND ASSOCIATED METHOD**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed February 24, 2004.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of the inventor's passport, which reflects a birth date of January 28, 1935 evidencing that the inventor is over 65 years of age.

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 examination art unit for expedited prosecution.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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

MAY 24 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	:
Roy Luedtke Jr.	:
Serial No.: 10/785,138	: SUSPENSION OF ACTION
Filed: February 24, 2004	:
Attorney Docket No.: P06272US01 - PHI 1333	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

In re Application of Luedtke :
Application No. 10/785,138 : Decision on Petition
Filing Date: February 24, 2004 :
Attorney Docket No. P06272US01-PHI133C :

This is a decision on the petition under 37 CFR 1.182, filed May 1, 2007, which requests that one of the two terminal disclaimers filed on February 7, 2007, be withdrawn.

The petition is **granted.**

On February 7, 2007, petitioner filed two terminal disclaimers in response to a non-final Office action.

One terminal disclaimer referenced Patent No. 6,737,566. The other terminal disclaimer referenced Patent No. 6,232,535. Petitioner requests the terminal disclaimer referencing Patent No. 6,232,535, be withdrawn.

As of the current date, the examiner has not mailed out any Office action in response to the February 7, 2007 papers, and the examiner has failed to make any indication in the file wrapper that the Terminal Disclaimers are accepted and entered.

Based on a review of all the facts, the terminal disclaimer referencing Patent No. 6,232,535, will be withdrawn.

The papers filed with the petition instructed the Office to charge $130 to petitioner's deposit account for the fee. As a result, $130 was charged to the account. However, the fee required for a petition under 37 CFR 1.182 is $400. Therefore, an additional $270 has been charged to the deposit account.

Technology Center Art Unit 1638 will be informed of the instant decision and the examiner will consider the merits of the papers filed February 7, 2007, in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY UT 84101

COPY MAILED

NOV 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Toronto et al.	:	DECISION ON PETITION
Application No. 10/785,141	:	TO WITHDRAW HOLDING OF
Filed: 24 February, 2004	:	ABANDONMENT
Atty Docket No. 3281.2.1.1	:	

This is in response to the petition filed on 10 June, 2005, to withdraw the holding of abandonment of the above-identified application.

This application is in an abandoned status for failure to respond in a timely and effective manner to the non-final Office action mailed on 1 November, 2004. A Notice of Abandonment was mailed on 23 May, 2005.

Petitioners assert that the non-final Office action mailed on 1 November, 2004, was not received. In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice of Allowance was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt

rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the non-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 non-final Office action on the part of the United States Patent and Trademark Office (Office).

To support the petition, the petitioners have submitted copies of the docket records where the non-received Office communication would have been entered had it been received, and a statement from the practitioner stating that a search of the office, the application file, and docket records indicates that the Office communication was not received.

The petitioners have made a sufficient showing of non-receipt of the non-final Office action based upon the docket records submitted and upon the statements from the practitioner. Accordingly, the application was not abandoned in fact.

The petition is **GRANTED.**

The non-final Office action mailed on 1 November, 2004, is hereby vacated. The application file is being forwarded to the Technology Center's support staff for mailing of a new non-final Office action. The time period for response will be set to run from the date the new Office action is mailed.

The application file will be forwarded to Technology Center 3700 for mailing of the new Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 5 2006

~~MAY 55 2006~~ VOID

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	
Mark Hoffbeck	:
Serial No.: 10/785,146	:
Filed: February 24, 2004	: SUSPENSION OF ACTION
Attorney Docket No.: P06268US02 - PHI 1433	:
	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2412

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of
Sehgal, Wong, and Seth
Application No.: 10/785,156
Filed: February 25, 2004
Attorney Docket No: 3840-006-27
For: THERAPEUTIC APPLICATIONS OF THROMBOMODULIN GENE VIA VIRAL AND NON-VIRAL VECTORS

: DECISION ACCORDING RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed November 19, 2004.

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on February 25, 2004, without a properly executed declaration. A Notice of Missing Parts of Nonprovisional Application was mailed on May 19, 2004, requiring a properly executed declaration and surcharge and a sequence listing. On November 19, 2004, the instant petition was filed along with a request for an extension of time within the fourth month. Petitioner has shown that inventor Seth has refused to join the filing of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Prem Seth
3405 Meadow Lane
Glenview, IL 60025

COPY MAILED
FEB 02 2005
OFFICE OF PETITIONS

In re Application of
Sehgal, Wong, and Seth
Application No. 10/785,156
Filed: February 25, 2004
Attorney Docket No. 3840-006-27
For: THERAPEUTIC APPLICATIONS OF THROMBOMODULIN GENE VIA VIRAL AND NON-VIRAL VECTORS

: LETTER

Dear Mr. Seth:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. It should be further noted that any assignee of record of the entire interest in the application may request that the inventor(s) be excluded from access to the application. If the request is granted, you will be informed of that fact and will only be permitted to inspect the application on sufficient showing of why such inspection is necessary to conserve your rights. See *MPEP* 106, citing, *In re The Kellog Switchboard & Supply Company*, 1906 C.D. 274 (Comm'r Pat. 1906).

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (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

Supervisor, Patent Prosecution Services
PIPER RUDNICK LLP
1200 Nineteenth Street, N.W.
Washington DC 20036-2412

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

NOV - 4 2004

JOEL D. SKINNER, JR.
SKINNER AND ASSOCIATES
212 COMMERCIAL ST.
HUDSON WI 54016

In re Application of	:
Martin Hinz	:
Serial No.: 10/785,158	: PETITION TO MAKE SPECIAL
Filed: February 23, 2004	:
Attorney Docket No.: HINZ101USA	:

This is in response to applicant's petition filed October 12, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant states (paragraph 4) that there is an infringing product on the market. Applicant states (paragraph 5) that a rigid comparison of the infringing product with the claims has been made. A review of applicant's claims shows that they are all "method" claims (i.e – of establishing a neurotransmitter status point) and that no "product" is mentioned in any of the claims. Thus it is unclear what product was compared to the claims. IN the absence of any claim to a product it is unclear how any infringement can be taking place.

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. Therefor the petition is **DENIED**.

The application will be taken up for action in turn.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 14 2005

RUDEN, MCCLOSKY, SMITH, SCHUSTER
& RUSSELL, P.A.
P.O. BOX 1900
FORT LAUDERDALE FL 33301

In re Application of Mitchel Karl Serial No.: 10/785,169 Filed: February 23, 2004 Attorney Docket No.: 43069-0003	: PETITION TO MAKE SPECIAL

This is in response to the petition filed February 23, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

M.P.E.P. 708.02, X, states as follows:

> Applicants who desire that an application relating to HIV/AIDS or cancer be made special should file a petition and the fee under 37 CFR 1.17(h) requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

A review of the claims shows that they are directed to treatment of cardiac conditions, not HIV or cancer. Further, no explanatory statement as required has been filed. Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefor the petition is **DISMISSED**.

The application will be acted on in turn.

Any renewed petition must be filed within TWO MONTHS of this decision in order to be considered timely.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 23, 2006

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/785,172 Patent No.: 6985,658

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: Changes do not effect the scope of the invention. The changes are directed to matters of form.

MC

SPE

2874

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

COPY MAILED

DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of

KARANASSOS, James
Application No. 10/785,216
Filed: February 24, 2004
Attorney Docket No. **449/120**

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 02, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

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 acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **ITXC IP HOLDINGS S.A.R.LI.**
8-10, RUE MATHIAS HARDT
L-1717
LUXEMBOURG

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

FEB 0 2 2010

OFFICE OF PETITIONS

GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

In re Application of
KARANASSOS, James
Application No. 10/785,216
Filed: February 24, 2004
Attorney Docket No. **449/120**

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 13, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

OCT 14 2005

Cooley Godward LLP
3000 EL Camino Real
5 Palo Alto Square
Palo Alto, CA 94306

In re Application of:
Meadows *et al.*
Serial No.: 10/785,247
Filed: February 24, 2004
Attorney Docket No.: **BEMI -04**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 27, 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 J. Dwight Poffenberger, Jr., on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Bruce Meadows
2800 Westonridge Drive
Cincinnati, OH 45239

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

WOOD, HERRON & EVANS, LLP
2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202

NOV 4 2005

In re Application of:	:	
Meadows *et al.*	:	CORRECTED
Serial No.: 10/785,247	:	DECISION ON REQUEST TO WITHDRAW
Filed: February 24, 2004	:	FROM RECORD
Attorney Docket No.: **BEMI -04**	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed August 27, 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 J. Dwight Poffenberger, Jr., on behalf of himself and all the attorneys/agents of record.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Bruce Meadows
2800 Westonridge Drive
Cincinnati, OH 45239

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

CHRISTOPHER P MAIORANA, PC
LSI Corporation
24840 HARPER
SUITE 100
ST CLAIR SHORES, MI 48080

COPY MAILED

NOV 18 2008

OFFICE OF PETITIONS

In re Application of
Lowell L. Winger, et. al.
Application No. 10/785,273
Filed: February 24, 2004
Attorney Docket No. 03-1431 1496.00341

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 16, 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 Rejection of November 6, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 7, 2008.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained.

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 and $810; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2621 for appropriate action by the Examiner in the normal course of business.

Brian W. Brown
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

COPY MAILED

APR 27 2006

OFFICE OF PETITIONS

PERMAN & GREEN
425 POST ROAD
FAIRFIELD, CT 0682

In re Application of :
Janesky : DECISION ON PETITION
Application No. 10/785,303 :
Filed: February 24, 2004 :
Atty. Dkt. No.: 257-011351- :
US(PAR) :

This is a decision on the petition under 37 CFR 1.137(b), filed April 5, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 8, 2008 for failure to timely file a proper reply to the final Office action mailed July 7, 2005. A reply and an extension of time request were filed December 7, 2005. The reply failed to place the application in condition for allowance, as indicated in the Advisory Action mailed December 23, 2005. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the final Office action is accepted as having been unintentionally delayed.

The Notice of Appeal has been entered and made of record. The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

Application No. 10/785,303

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 request for two month extension of time submitted herewith was filed subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may request a refund of the previously submitted $285.00 extension of time fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application will be forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter 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

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

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 04/21/2010

Applicant	: Dean Vinson Davis	: DECISION ON REQUEST FOR
Patent Number	: 7629177	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/785,304	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1283** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Edward R. Gates
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

COPY MAILED

AUG 16 2005

OFFICE OF PETITIONS

Applicant: Foss et al.
Appl. No.: 10/785,320
Filing Date: February 24, 2004
Title: ORAL USE OF METHYLNALTREXONE AND RELATED COMPOUNDS TO INDUCE LAXATION IN CHRONIC OPIOID USERS
Attorney Docket No.: Po452.7011US03
Pub. No.: US 2004/0167147 A1
Pub. Date: August 26, 2004

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 15, 2004 for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, as "laxation" is misprinted as "Taxation" in the abstract, claim 1 and claim 4.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor wherein "laxation" is misprinted as "Taxation" in the abstract, claim 1 and claim 4 are Office errors, but the mistakes are minor typographical error, which are clearly understandable to one of ordinary skill in reading the abstract, specification and the claims. The application is directed to a medical method to induce laxation, which has nothing in relation to "taxation", thus it is clearly a typographical error. The mistakes are minor typographical errors, which are clearly understandable from reading the claims in which the terms are used, as terms are not read in a vacuum. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct 10, 2000) (final rule).

Furthermore, these are not material errors since the Image File Wrapper (IFW) for this application is available to the public, as of its publication date.

The error is also not a material mistake because the application is a Continuation of U.S. Application 10/357,669 filed February 4, 2003, now U.S. Patent Application Publication 2003/0187010 A1. Since, the parent application is published and contains the information printed correctly, the error does not affect the public's ability to appreciate the technical disclosure of the patent application publication.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS-system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice)

Mark Polutta
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
For Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090330

DATE : April 1, 2009

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,298,364

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: /Bipin Shalwala/ **Art Unit** /629

PATENT
Customer No. 22,852
Attorney Docket No. 09812.0408

OK to enter.
VS
3/30/09

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 7,298,364	)
	)
Inventor: Kouichi MATSUDA	)
	)
Issue Date.: November 20, 2007	)
	)
For: DISPLAY DEVICE	)
	)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 255 and 37 C.F.R. § 1.323, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one (1) pages.

The mistake identified in the attached form are of a clerical or typographical nature, or of minor character, and resulted from an error made in good faith by applicants. Issuance of the Certificate of Correction containing the correction is earnestly requested.

This request is filed electronically. The amount of $100.00 (the fee set forth in 37 C.F.R. § 1.20(a)) is paid via credit card to cover the costs of issuing this Certificate. Should any additional fees be needed, authorization is hereby given to charge any fees due in connection with the filing of this request to Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 27, 2008

By: /David W. Hill/
David W. Hill
Reg. No. 28,220

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. 7,298,364

DATED: November 20, 2007

INVENTORS: Kouichi MATSUDA et al.

It is hereby certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the title page, item (57), line 10, "to th" should read --to the--.

MAILING ADDRESS OF SENDER

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, NW
Washington, D.C. 20001-4413

Patent No. 7,298,364

No. of additional copies
@ 50¢ per page

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/04/08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 10785332 Patent No.: 7361706

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 1796

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

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(The Webb Firm)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07414-1880

Mail Date: 04/21/2010

Applicant	: Kirk D. Swenson	: DECISION ON REQUEST FOR
Patent Number	: 7578977	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/785,344	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1555** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KARL M. STEINS
STEINS & ASSOCIATES
SUITE 120
2333 CAMINO DEL RIO SOUTH
SAN DIEGO, CA 92108

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Lars Karlsson et al	:	
Application No. 10/785,356	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. ADV7-H64	:	

This is a decision on the petition filed February 19, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed August 13, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 14, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

ORGANON USA, INC.
C/O SCHERING-PLOUGH
CORPORATION
2000 GALLOPING HILL ROAD
MAIL STOP: K-6-1, 1990
KENILWORTH NJ 07033

COPY MAILED

OCT 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Wan et al.	:	
Application No. 10/785,369	:	ON APPLICATION
Filed: February 23, 2004	:	FOR
Atty Docket No. D 2003.784 US	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) filed June 12, 2008.[1] Applicants assert that the initial determination of patent term adjustment omits the period of adjustment under Rule 703(b).

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is 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 § 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

[1] This application was timely filed with payment of the Issue Fee on June 12, 2008.

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.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

MAR 1 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Staimer et al.	:	
Application No. 10/785,376	:	
Filed: February 23, 2004	:	ON PETITION
Attorney Docket No.	:	
NAGACO.211A	:	

This is a decision on the Petition for Entitlement to Priority Date, filed September 20, 2004, requesting the above-identified application be accorded a filing date of February 23, 2004.

The petition is **granted**.

The application was filed on February 23, 2004. On July 21, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Provisional Application (hereinafter "Notice") stating, *inter alia*, that the application had not been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant avers that the application incorporates by reference provisional application no. 60/449,192, the entire disclosure of which has been incorporated by reference.

A review of the file reveals that the application contains method claims. As stated in MPEP § 601.01(f), it is the practice of the PTO to treat an application that contains at least one 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).

MPEP § 601.01(f) also states that:

> 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.

This application contains method claims; therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the Notice mailed July 11, 2004, was mailed in error and is hereby withdrawn.

It is also noted that Applicant is correct that the application includes a proper incorporation by reference of provisional application no. 60/449,192. Incorporation by reference permits an applicant to amend the application to include any subject matter in such prior application(s) without the need for a petition, provided the application is entitled to a filing date notwithstanding the incorporation by reference.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of February 23, 2004, and an indication that no drawings were required nor present on filing.

The petition fee has been refunded to deposit account 11-1410 as authorized in the instant petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

COPY MAILED

NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of	:
Nguyen, Chang, Chen, Thackeray,	:
Stanovic, Leong, and Goodrich	: DECISION ACCORDING STATUS
Application No. 10/785,382	: UNDER 37 CFR 1.47(a)
Filed: 23 February, 2004	:
Attorney Docket No. 22950-08898	:

This is in response to the petition under 37 CFR 1.47(a)[1] filed on 18 October, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors cannot be reached or have refused to sign the declaration. Specifically, petitioners have shown, via the declaration of registered patent attorney Colleen V. Chien, that a copy of the application papers was sent to each of the non-signing inventors. However, the applications sent to non-signing inventors Thackeray, Goodrich, and Stanovic were returned as undeliverable, while joint inventor Leong has failed to sign and return the declaration. Additionally, petitioners have shown diligent efforts in attempting to reach joint inventors Thackeray, Goodrich, and Stanovic.

---

[1]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.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the declaration. Notice of the filing of this application will also be published in the Official Gazette.

It is noted that the last name of the fifth inventor appears as "Stanovic" on the executed declaration submitted with the present petition, but the inventor's last name is captioned as Stankovic in other documentation submitted in this application. As the inventor's name will be entered in Office records as it appears on the executed declaration, a petition under 37 CFR 1.182, accompanied by the requisite fee, to correct the spelling of the inventor's name must be filed if an inventor's name was misspelled on the executed declaration.

The application is being referred to Technology Center Art Unit 2173 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

Raymond Thackeray
11 Sycamore Close
Fetcham Surrey
KT22 9EX
UNITED KINGDOM

COPY MAILED

NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of
Nguyen et al.
Application No. 10/785,382
Filed: 23 February, 2004
For: Event Planning System

Dear Mr. Thackeray:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

Adam Goodrich
1/3 Curraghbeen Road
Mossman NSW
AUSTRALIA 2088
AUSTRALIA

COPY MAILED

NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of
Nguyen et al.
Application No. 10/785,382
Filed: 23 February, 2004
For: Event Planning System

Dear Mr. Goodrich:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

Hoselito Stankovic
4755 Sutcliff Avenue
San Jose CA 95118

COPY MAILED

NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of
Nguyen et al.
Application No. 10/785,382
Filed: 23 February, 2004
For: Event Planning System

Dear Mr. Stankovic:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW 11-04

Bruce Leong
72 Duttonwood Lane
Milpitas CA 95035

COPY MAILED

NOV 1 6 2004

OFFICE OF PETITIONS

In re Application of
Nguyen et al.
Application No. 10/785,382
Filed: 23 February, 2004
For: Event Planning System

Dear Mr. Leong:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 0 5 2006

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of :
Kristiansen, et al. : DECISION ON PETITION
Application No. 10/785,418 :
Filed: February 25, 2004 :
Docket No.: 065322-0308491 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 24, 2006.

The petition is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned September 14, 2005 for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice). The Notice, mailed July 13, 2005, set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed March 14, 2006.

Petitioners allege that a reply to the Notice was timely submitted on August 19, 2005 and reference a date-stamped return receipt.

A review of the official record does not reveal that a response was received on August 19, 2005 as argued by petitioners. Moreover, a copy of the alleged response and a copy of the date-stamped return receipt do not appear to have been provided with the instant petition. Accordingly, the instant petition is subject to dismissal.

Any renewed petition should include a copy of the response alleged to have been submitted along with a copy of the date-stamp return receipt as evidence of submission.

There is no indication that practitioner herein was ever empowered to prosecute the instant application. If practitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to practitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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: Paul L. Sharer
Intellectual Property Group
1909 K Street, N.W.
Washington, D.C. 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 25 2006

OFFICE OF PETITIONS

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of :
Kristiansen, et al. : DECISION ON PETITION
Application No. 10/785,418 :
Filed: February 25, 2004 :
Docket No.: 065322-0308491 :

This decision is in response to the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 12, 2006.

This application was held abandoned September 14, 2005 for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice). The Notice, mailed July 13, 2005, set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed March 14, 2006. A petition under 37 CFR 1.181 was filed March 24, 2006 and dismissed May 5, 2006.

Petitioners allege that a reply to the Notice was timely submitted on August 19, 2005 and have included as proof of submission and proof of receipt of the reply a date-stamped return receipt acknowledging Office receipt of the reply.

A review of the official record does not reveal that a response was received on August 19, 2005 as argued by petitioners. However, in view of the evidence submitted, Notice of Abandonment is hereby **VACATED**; the holding of abandonment is hereby **WITHDRAWN**; and the petition is hereby **GRANTED**.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/05/2010

Applicant	: Rutger van Dalen	: DECISION ON REQUEST FOR
Patent Number	: 7624148	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/785,420	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1322** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 09-04

Paper No: __

WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA PA 19103

COPY MAILED

SEP 2 3 2004

OFFICE OF PETITIONS

In re Application of
Springer, et al.
Application No. 10/785,436
Filed: 3 March, 2004
Attorney Docket No.: 3DP-0544

DECISION ON PETITION

This is a decision on the petition, filed on 1 September, 2004, under 37 C.F.R. §1.53 seeking to have accorded to the instant application a filing date of 23 February, 2004.

For the reasons set forth below, the petition is **GRANTED in part** and **DISMISSED in part**, and no petition fee is charged.

The application was deposited on 23 February, 2004.

On 13 August, 2004, the Office mailed a "Notice of Incomplete Nonprovisional Application" indicating that the application was filed without, *inter alia*, drawings as required under 35 U.S.C. §113 (first sentence) and that no filing date has been granted.

On 1 September, 2004, Petitioner replied submitting the instant petition, alleging, *inter alia*, that the application claimed priority to Application No 09/722,495 filed on 28 November, 2000, and Petitioner also submitted copies of the drawings (2 sheets, Figs. 1 - 2).

A review of the application also indicates that, *inter alia*, the application contains one or more methods and/or process claims.

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 §601.01[1])

This application contains method claims, e.g., claims 39 and 41. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP §601.01(g).[2]

It appears that a "Notice of Omitted Items" should have been mailed instead of the "Notice of Incomplete Nonprovisional Application."

Therefore, the 13 August, 2004, "Notice of Incomplete Nonprovisional Application" hereby is **vacated**.

---

[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 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(c) 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.

* * *

The application is accorded a filing date of 23 February, 2004.

The petition is **granted in part**, to the extent that the application will be accorded the filing date of 23 February, 2004, without the 2 sheets of drawings containing Figures 1 - 2 as part of the original disclosure of the application; in all other respects the petition **is dismissed**.

The application file is being released to the Office of Initial Patent Examination for further processing with a corrected filing date of 23 February, 2004, indicating in the Office records that "0" sheets of drawings were present on filing, and the mailing of a corrected filing receipt.

As noted above, Petitioner also alleges a claim of priority of the instant to a parent. In that connection, Petitioner may seek entry by the Examiner of the preliminary amendment previously filed addressing that priority and the associated drawings.

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PRATT & WHITNEY
400 MAIN STREET
MAIL STOP: 132-13
EAST HARTFORD CT 06108

COPY MAILED

MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Walsh, Leonard Michael	:	
Application No. 10/785,439	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. EH-10764	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed June 24, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 25, 2004. A Notice of Abandonment was mailed February 4, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 3700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

JJG/R.: 08-07

Paper No:__

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO IL 60606-6473

COPY MAILED

SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of :
Endt :
Application No. 10/785,447 :
Filing Date: 24 February, 2004 :
Attorney Docket No.: P04,0026 :

DECISION

This is a decision on the petition filed on 9 November, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

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]

Petitioner's attention is drawn to the provisions of 37 C.F. R.§ 1.3[2]

---

[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.**

[2] **37 C.F. R.§ 1.3 Business to be conducted with decorum and courtesy.**
Applicants and their attorneys or agents are required to conduct their business with the United States Patent and Trademark Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Director and will not be entered. A notice of the non-entry of the paper will be provided. Complaints against examiners and other employees must be made in correspondence separate from other papers. [Amended, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003] (Emphasis supplied.)

NOTE: Petitioner may wish to submit a supplemental reply to the 30 December, 2005, Notice of Non-Compliant Amendment with a statement and corrected drawing that are reflective of Petitioner's intent–whether as a "replacement," "new" or "annotated," or otherwise, as Petitioner appears to intend that the drawing be an exemplar for Petitioner's discussion, rather than a figure/drawing of the application *per se*–and consistent with both the 30 December, 2005, Notice of Non-Compliant Amendment and the provisions of 37 C.F. R.§ 1.3.

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 30 December, 2005, with reply due absent extension of time on or before 30 January, 2006;
- the application went abandoned by operation of law after midnight 30 January, 2006;
- the Office mailed the Notice of Abandonment on 8 September 2006;
- on 9 November, 2006, Petitioner filed (over a 6 November, 2006, Certificate of Mailing) the instant petition, with, *inter alia*, an averment that he had replied, a copy of that reply, and a date-stamped ("JAN 18 2006") receipt card (see: MPEP §503[3]) indicating receipt

---

[3] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new

by the Office of a paper that Petitioner called "Response to Notice of Non-Compliant Amendment";

- notably, in response to Petitioner's filing of an unlabeled and un-annotated drawing accompanying Petitioner's 19 December, 2005, amendment, the Office Noticed the Petitioner that the drawing required some designation to be a proper figure;

- rather than provide the designation(s) requested by the Office, the Petitioner chose instead to lecture the Examiner, to wit:

***

> ...as could easily have been ascertained if Applicant's Response had been actually (sic) read, it would have been readily apparent that the attached drawing is not intended as an application drawing, but is merely an exhibit used to explain and illustrate Applicant's arguments in support of patentability. This could easily have been ascertained by a very quick review of Applicant's response, wherein no drawing amendment whatsoever was indicated.
>
> There is no need to designate the drawing as a replacement sheet ....[4]

***

Notably, Petitioner located the entitlement of his 18 January, 2006, paper ("Response to Notice of Non-Compliant Amendment") <u>not</u> between Petitioner's designation of addressee ("Mail Stop Amendment") and Petitioner's argument, where the purpose of the paper might be apparent to filing and docketing personnel (who may not possess Petitioner's extensive prosecution and scientific training, expertise and experience–but, rather, <u>Petitioner chose to integrate the entitlement into the very caption of the paper</u>, and

---

application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are <u>properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO</u>. (Emphasis supplied.)

[4] Petitioner's18 January, 2006, filing, at pages 1 and 2.

so it was identified in Office records not as Petitioner's response to an Office action but as a "Miscellaneous Incoming Letter";

- apparently frustrated that the Office had missed the presence of his 18 January, 2006, paper–and so issued the 8 September, 2006, Notice of Abandonment–Petitioner first educated the Office as to the (one-day) date inaccuracy (i.e., the indication in the Notice that the mail date of the Notice of Non-Compliant Amendment was not 29 but rather 30 December, 2005) of the Notice of Abandonment, and Petitioner continued that he "assumes that this was the communication for which allegedly no response was received at the Patent and Trademark Office"–and Petitioner continues" "On January 16, 2006, Applicant did file a Response to Notice of Non-Compliant Amendment ....";

- as one long registered to practice before the Office, Petitioner, of course, is aware of his error in this latter statement because, while Petitioner may aver that he executed on 16 January, 2006, a Certificate of Mailing (under 37 C.F.R. §1.8) on the Response to the Notice of Non-Compliant Amendment, that execution was little more than a statement that Petitioner had on that date <u>sent the paper to be mailed</u>–i.e., <u>submitted</u> the paper, as Petitioner is aware is the proper expression in practice before the Office–and not filed it at all because in the absence of a transmission under the provisions of 37 C.F.R. §1.10 there is no filing of papers via the U.S. Postal Service (USPS) until they are physically received at the Office;

- Petitioner continued his averments in the 9 November, 2006, petition by again taking up his lecture to the Office–and asserted that:

> ***
>
> ... the original Notice of Non-Compliant Amendment was erroneously sent *** [and] *** stated that the drawing attached to the Response filed on December 19, 2005, were not identified as "Replacement Sheet" *** [but] *** as could easily have been ascertained, if Applicant's Response had actually been read, the drawing attached *** was not intended as an application drawing, but was an Exhibit ....[5]
>
> ***

Petitioner, of course, recognizes his own error here as well, because the 30 December, 2005, Notice of Non-Compliant Amendment from the Office did not designate Petitioner's drawing as a "Replacement Sheet," but, rather, directed Petitioner to label properly the drawing as would be informative to the Examiner and responsive to the Notice and the Rules of Practice (37 C.F.R. Part 1).

---

[5] Petitioner's9 November, 2006, filing, at page 2.

Thus, Petitioner argues both that he did not receive the Office action–because the Office action identified in the Notice of Abandonment is one of 29 December, 2005, and, as noted above, the mail date actually was 30 December, 2005–and that in any case he timely and properly filed a reply in the form of the 18 January, 2006, paper.

Petitioner is correct in part: the 8 September, 2006, Notice of Abandonment appears to have been mailed improvidently because Petitioner timely filed a reply on 18 January, 2006–however, the determination as to whether that reply was proper or not is one which will remain within the purview of the Examiner following the mailing of this decision.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[6]

---

[6] 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).[7]

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.[8]

Delays in responding properly raise the question whether delays are unavoidable.[9] 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).[10]

And the Petitioner must be diligent in attending to the matter.[11] 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

---

(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]

[7] 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.

[8] 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.

[9] 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).

[10] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[11] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[12]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[13]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

---

[12] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[13] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

The commentary at MPEP §711.03(c) further provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is

shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears technically to have satisfied the showing requirement described above.

CONCLUSION

Because Petitioner technically appears to have carried his burden in the instant matter, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 8 September, 2006, Notice of Abandonment is **vacated**; further:

- the Examiner's attention is drawn as well to the provisions of 37 C.F. R.§ 1.3;

- the Examiner may now make a determination whether Petitioner's 18 January, 2006, reply is or is not consistent with those regulatory provisions; and

- having made such a determination, the Examiner may act to enter or not the reply, and, if appropriate, provide Notice of non-entry consistent with the regulations at 37 C.F. R.§ 1.3.

The application is released to Technology Center 2800 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[14]) 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

[14] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LINIAK, BERENATO & WHITE
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

COPY MAILED
AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Edmonds	:	
Application No. 10/785,480	:	DECISION ON PETITION
Filed: February 25, 2004	:	TO WITHDRAW
Attorney Docket No. 1232.002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed 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 Liniak on behalf of himself.

All other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

COPY MAILED

SEP 13 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Bruno Marchevsky	:	
Application No. 10/785,490	:	
Filed: February 24, 2004	:	
Attorney Docket No.: 05-524-A	:	

This is a decision on the petition, filed September 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 August 23, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2617 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY 24 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 ,	:
Mark Hoffbeck	:
Serial No.: 10/785,492	: SUSPENSION OF ACTION
Filed: February 24, 2004	:
Attorney Docket No.: P06316US02-1434	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/02/04

Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/785501 received on 03/22/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/12/04

James F. Thompson
Weingarten, Schurgin, Gagnebin &Lebovici LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/785501 received on 03/22/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

MAILED

FEB 25 2009

OFFICE OF PETITIONS

In re Patent of Miller	:	
Patent No. 7,386,983	:	
Issue Date: June 17, 2008	:	Letter
Application No. 10/785,502	:	
Filing Date: February 25, 2004	:	
Attorney Docket No. 67097-994:PA-10797-US	:	

This is a letter to the request under 37 CFR 3.81 filed August 27, 2008, to accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

> Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Patentee has met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will issue the requested certificate of correction in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6870100
Issue Date: March 22,2005
Application No. 10785511
Filed: February 24,2004
Attorney Docket No. 32983-74329

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 5,2009 ,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 May 5,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,870,100	2005-03-22	10/785,511	2004-02-24	32983-74329

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jrs/	Date (YYYY-MM-DD)	2009-05-05
Name	James R. Sweeney II	Registration Number	45670

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRENDA POMERANCE
LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK NY 10019

COPY MAILED

MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Hosogai :
Application No. 10/785,518 :
Filed: February 24, 2004 :
Attorney Docket No. 0815-4003 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2006, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and,
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). The nonpublication request has been rescinded.

Accordingly, the failure to timely notify the Office of a foreign filing within 45 days as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

A Communication Regarding Rescission of Nonpublication Request and /or Notice of Foreign Filing which sets forth the projected publication date accompanies this decision on petition.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

enclosure: corrected filing receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/785,518	02/24/2004	3765	385	0815-4003	2	9	3

CONFIRMATION NO. 8322
CORRECTED FILING RECEIPT
OC000000018321624
OC000000018321624

24259
BRENDA POMERANCE
LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK, NY 10019

Date Mailed: 03/20/2006

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)

Toshio Hosogai, Pound Ridge, NY;

Assignment For Published Patent Application

Chuck Roaste's Reversible Jeans LLC, White Plains, NY

Power of Attorney: The patent practitioners associated with Customer Number **24259**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/785,518

Projected Publication Date: 06/29/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Reversible inseam pocket

Preliminary Class

002

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/785,518	02/24/2004	Toshio Hosogai	0815-4003

CONFIRMATION NO. 8322

24259
BRENDA POMERANCE
LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK, NY 10019

Date Mailed: 03/20/2006

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 06/29/2006.

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".

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

COPY MAILED

OCT 26 2004

OFFICE OF PETITIONS

In re Application of	:
O'Hara	: DECISION REFUSING STATUS
Application No. 10/785,519	: UNDER 37 CFR 1.47(b)
Filed: February 24, 2004	:
Atty. Dkt. No.: CRD-5064	:
For: RADIOPROTECTIVE COMPOUND	:
COATING FOR MEDICAL DEVICES	:

This decision is in response to the petition under 37 CFR 1.47(b), filed September 15, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor Michael D. O'Hara has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

It is noted that the last known address of the non-signing inventor indicated in the petition differs from the address indicated on the declaration. It is presumed for the purpose of satisfying 37 CFR 1.47(c), that the last known address indicated in the petition is accurate. To the extent that the last known address of the non-signing inventor differs from that indicated in the petition, petitioner is required to notify the Office.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEYER WEAVER & THOMAS, LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

COPY MAILED

NOV 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Leng et al. :
Application No. 10/785,535 :
Filed: February 23, 2004 :
Attorney Docket No. ALTRP113/A1350 :

This is a decision on the petition filed July 15, 2004, requesting that the above-identified application be accorded a filing date of February 23, 2004, rather than the presently accorded date of February 24, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 23, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 332826039 US showing a handwritten "date-in" of "February 24, 2004" as well as a "February 23, 2004" Berkeley CA USPS date stamp. The same Express Mail receipt number appears on the Certificate of Express Mailing dated February 23, 2004 on the original "Utility Patent Application Transmittal" for the instant application.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on February 23, 2004 at the Berkeley, CA USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on February 23, 2004. Accordingly, the instant application is entitled to a filing date of February 23, 2004, and has been so accorded.

The petition is **GRANTED**.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 23, 2004, including mailing of a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2811 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3282.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 28 2009

OFFICE OF PETITIONS

CYNTHIA B. ROTHSCHILD
KILPATRICK STOCKTON LLP – 49942
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

In re Application of	:	
Clark et al.	:	DECISION ON PETITION
Application No. 10/785,559	:	TO WITHDRAW
Filed: February 24, 2004	:	FROM RECORD
Attorney Docket No. 26401/09640	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 7, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on May 19, 2006 the power of attorney to Kilpatrick Stockton 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: Nelson Mullins Riley & Scarborough, LLP
1320 Main Street, 17th Floor
Columbia SC 29201

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

AUG 1 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ECKERT SEAMANS CHERIN & MELLOTT, LLC
600 GRANT STREET 44th floor
PITTSBURGH PA 15219

In re Application of: Evers
Application No. 10/785,579
Filed: February 23, 2004
For: System and method for secure installation and operation of software.

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed October 25, 2004, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;
>
> (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;
>
> (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of October 25, 2004 meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application is being forwarded to the examiner for accelerated examination in accordance with 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.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3613

AWK

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

Kevin Mark Klughart
2516 Lillian Miller Parkway
Suite 115
Denton, TX 76210-7205

MAILED

NOV 02 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
Perry Wayne Ancell
Application No. 10/785,582
Filed: February 24, 2004
For: UTILITY POLE INSTALLATION SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL (ENVIRONMENTAL QUALITY)

This is a decision on the petition filed February 24, 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.

Applicant's petition includes a declaration by his attorney which states, in pertinent part, that "the present invention eliminates the soil contamination associated with Creosote treated wood poles and replaces this soil contamination with an environmentally friendly FIBERGLASS® pole that has a long lifespan." And, that applicant's invention "will eliminate the toxic chemical contamination of soil surrounding utility pole installation."

For the above stated reasons, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 10/26/04

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

COPY MAILED

MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Lee and Kessler :
Application No. 10/785,598 : DECISION GRANTING PETITION
Filed: February 24, 2004 :
Attorney Docket No. 87163AEK :

This is a decision on the petition filed February 3, 2005, under 37 CFR 1.10(d) requesting that the above-cited application be accorded a filing date of February 24, 2004, rather than the presently accorded filing date of February 20, 2004.

Petitioner alleges that the application was deposited with the Express Mail Service on February 24, 2004, notwithstanding the entry of February 20, 2004 as the "date-in" of the Express Mail receipt. In support of the allegation, the petition is accompanied by a copy of the "Express Mail Log" maintained by petitioner showing that Express Mail package EV293529955US was deposited with the United States Postal Service, Express Mail Service on February 24, 2004. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on February 24, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is February 24, 2004.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 24, 2004, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORSE, BARNES-BROWN & PENDLETON, P.C.
ATTN: PATENT MANAGER
RESERVOIR PLACE
1601 TRAPELO ROAD, SUITE 205
WALTHAM MA 02451

COPY MAILED

MAY 06 2008

OFFICE OF PETITIONS

In re Application of
Bruce W. Kneller
Application No. 10/785,600
Filed: February 23, 2004
Attorney Docket No. BKNL-001-101

ON PETITION

This is a decision on the petition filed April 24, 2008, to revive the above identified application under 37 CFR 1.137(a)[1].

The petition under 37 CFR 1.137(a) is **DISMISSED**.

A non-Final Office Action was mailed May 3, 2007 and set a three (3) month shortened statutory period for reply. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the application became abandoned on August 6, 2007. Accordingly, a Notice of Abandonment was mailed December 27, 2007.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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, 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]

Petitioner asserts that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this patent application and finally his failure to advise the applicant that this patent application had become abandoned.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the

---

[2]35 U.S.C. § 133.

[3]In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4]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).

part of the attorney of record in prosecution of the matter.[6] Since petitioners can't say for certain whether the attorney of record exercised any diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of the attorney of record. The series of events outlined in the petition suggest that the attorney of record may have been negligent in prosecuting the application and in failing to inform petitioner that the application had become abandoned.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[7] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[8]

As petitioner has not provided a showing of evidence 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)[9],

---

[6]See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

[7]Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[8]Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[9]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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 $750.00 for a small entity and $1500.00 for a large entity and the $250.00 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

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

MORSE, BARNES-BROWN & PENDLETON, P.C.
ATTN: PATENT MANAGER
RESERVOIR PLACE
1601 TRAPELO ROAD, SUITE 205
WALTHAM MA 02451

COPY MAILED

JUN 09 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
Bruce W. Kneller
Application No. 10/785,600
Filed: February 23, 2004
Attorney Docket No. BKNL-001-101

This is a decision on the petition filed May 13, 2008, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

A non-Final Office Action was mailed May 3, 2007 and set a three (3) month shortened statutory period for reply. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the application became abandoned on August 6, 2007. Accordingly, a Notice of Abandonment was mailed December 27, 2007. A petition filed April 24, 2008 under 37 CFR 1.137(a) argued that petitioner was unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

respond to their inquiries regarding the status of this patent application and finally his failure to advise the applicant that this patent application had become abandoned.

The petition was dismissed in a decision mailed May 6, 2008 because petitioner had not established unavoidable delay.

Comes now petitioner with the instant petition to revive and a response to the non-Final Office Action mailed filed May 3, 2007.

This matter is being referred to Technology Center 1617 for appropriate treatment on the amendment filed May 13, 2008.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORSE, BARNES-BROWN & PENDLETON, P.C.
ATTN: PATENT MANAGER
RESERVOIR PLACE
1601 TRAPELO ROAD, SUITE 205
WALTHAM MA 02451

COPY MAILED

OCT 21 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bruce W. Kneller :
Application No. 10/785,600 :
Filed: February 23, 2004 :
Attorney Docket No. BKNL-001-101 :

This is a decision on the request for reconsideration filed July 7, 2008, to revive the above identified application under 37 CFR 1.137(a)[1].

The petition under 37 CFR 1.137(a) is **DISMISSED**.

A non-Final Office Action was mailed May 3, 2007 and set a three (3) month shortened statutory period for reply. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the application became abandoned on August 6, 2007. Accordingly, a Notice of Abandonment was mailed December 27, 2007. In a petition filed April 24, 2008 petitioner asserted that they were unavoidably delayed from filing a timely response to the Office action due to the attorney of record's failure to take action in this matter, failure to respond to their inquiries regarding the status of this patent application and finally his failure to advise the applicant that this patent application had become abandoned.

That petition was dismissed in a decision mailed May 6, 2008. The U.S. Patent and

---

[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. The decision advised that petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[2]

In view of the dismissal and instead of a renewed petition under 1.137(a), in the alternative, a petition to revive the application was filed May 13, 2008 under 37 CFR 1.137(b). That petition was granted in a decision mailed June 9, 2008.

Comes now petitioner arguing again that the delay was unavoidable.

With the instant renewed petition however, petitioner has not provided any additional proof to persuade the USPTO that in fact the delay was unavoidable. Furthermore, the application is no longer abandoned since the petition filed May 13, 2008 under the unintentional standard was granted.

Consideration has been given to the underlying delay that caused the abandonment under both the unavoidable and unintentional standards. In view thereof, and as the application has been returned to active status, there are no additional issues regarding unavoidable delay to be decided.

This matter is being referred to Technology Center 1612 for further examination.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[2] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

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

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

COPY MAILED
DEC 0 9 2005
OFFICE OF PETITIONS

In re Application of	:	
Brian Rose	:	
Application No. 10/785,604	:	ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No.: P2492C-961	:	
	:	

This is a decision on the petition, filed December 1, 2005 and supplemented on December 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 7, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2676 for further processing of the request for continued examination under 37 CFR 1.114 filed December 8, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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
10/785,615	02/24/2004	1752	1316	5347-223	9	36	6

CONFIRMATION NO. 2942

CORRECTED FILING RECEIPT

OC000000013090726

Mitchell S. Bigel
Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, NC 27627

Date Mailed: 06/30/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jeffry A. Kelber, Plano, TX;
Jipu Lei, Denton, TX;
Noel P. Magtoto, Denton, TX;
Sergei Rudenja, Denton, TX;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/449,974 02/25/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2004

Projected Publication Date: 08/26/2004

Non-Publication Request: No

Early Publication Request: No

Title

Conductors created by metal deposition using a selective passivation layer and related methods

Preliminary Class
430

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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

VIOLA T. KUNG
HOWREY SIMON ARNOLD & WHITE, LLP
301 RAVENSWOOD AVENUE
BOX NO. 34
MENLO PARK, CA 94025

COPY MAILED

SEP 14 2004

OFFICE OF PETITIONS

In re Application of
Wu et al
Application No. 10/785,644
Filed: February 23, 2004
Attorney Docket No.
07783.0063.CPUS02

:DECISION GRANTING FILING
:DATE OF FEBRUARY 23, 2004

This is a decision on the petition filed August 18, 2004, requesting that the above-identified application be accorded a filing date of February 23, 2004 rather than the presently accorded date of February 24, 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 23, 2004 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail Label No. EL615431096US showing a stamped date of February 23, 2004. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the USPS receipt stamp of February 23, 2004, appearing on the same Express Mail label number as shown on the transmittal for the instant application, it is concluded that the application was deposited as "Express Mail" with the USPS on February 23, 2004.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (703) 305-8859.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of February 23, 2004 and for mailing of a corrected filing receipt.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

HOWREY SIMON ARNOLD & WHITE, LLP
C/O M.P. DROSOS, DIRECTOR OF IP ADMINISTRATION
2941 FAIRVIEW PARK, BOX 7
FALLS CHURCH VA 22042

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/18/04

Fay, Sharpe, Fagan, Minnich & McKee, LLP
1100 Superior Avenue
Seventh Floor
Cleveland, OH 44114-2518

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/785647 received on 06/01/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

SoCal IP
Law Group LLP

310 N. Westlake Blvd., Suite 120
Westlake Village, California 91362
phone +1 (805) 230-1350 x246
fax +1 (805) 230-1355
mharris@socalip.com

FAX COVER SHEET

PRIVACY NOTICE: This message is intended only for the individual to whom it is addressed and may contain information that is privileged, confidential or exempt from disclosure under applicable law. If you are not the intended recipient or the person responsible for delivering the message to the intended recipient, you are hereby notified that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify us immediately by telephone and destroy the document. Thank you.

Pages including this cover sheet:	14
To:	**Examiner V. Manoharan**
Fax No:	**571-273-1450**
From:	**Michael Harris**
Re:	**U.S. Patent Application No. 10/785,653, Bitterly et al.**
Our file No.:	**I022-P07323**
Date:	March 16, 2009
Remarks:	Attached are the requested specification pages and cover letter.

PATENT
Matter No. I022-P07323
Applicants: Bitterly, Jack G. et al.
Serial No.: 10/785,653
Filed: February 23, 2004
Title: Saline/Sewage Water Reclamation System
Group Art Unit: 1764
Examiner: Manoharan, V.

I certify that on **March 16, 2009**, which is the date I am signing this certificate, this correspondence is being transmitted by fax to 571-273-1450
Michael Harris
Michael Harris

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO TELEPHONE REQUEST TO SUBMIT COPIES OF APPLICATION PAGES

Sir:

Per your request, we enclose copies of pages 25 through 36 of the specification of this application.

Please either telephone or email me so that I know you received this correspondence and that the attached pages comply with your request.

March 16, 2009

Michael Harris
Michael D. Harris, Reg. No. 26,690
Attorney for Applicants

SoCal IP
Law Group LLP
310 N. Westlake Blvd., Suite 120
Westlake Village, CA 91362
Phone: (805) 230-1350 x246 • Fax: (805) 230-1355
Email: mharris@socalip.com

PAGE 2/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

Boiler and Condenser Surface Area Design: To increase the system water processing output flow, the boiler and condenser surface area must be as large as possible and still be cost effective and practical. The output flow is linearly proportional to the boiler surface area as shown in Equation (6). One unique feature of the water processing system of the present invention is that it uses a common boiler and condenser wall surface. For efficient packaging and provided high heat transfer can be achieved, designing the boilers and condensers to be concentric shells with small separations between them and with decreasing radii inside one large cylindrical container, represents the best space saving layout. The analysis that follows presents relations that compute the total surface area of the combined boiler and condenser surfaces for one embodiment of the present invention. These relations predict the weight and cost of the system and the output flow performance.

The application has discussed three adjacent, concentric shells such as shells **32**, **34** and **40** (FIG. 1). Another way of considering the shells is to think of them as pairs having a boiler and condenser shell. Thus, the system has a set of boiler shells and a set of condenser shells. One of the boiler shells and the adjacent condenser shell form a group pair about a common axis. The next boiler and condenser shell adjacent to the first-mentioned pair, also form a pair about the same axis.

As FIGS. 2 and 3 show, a fixed radial spacing ΔR exists between each shell. In theory, the spacing can vary, but the exemplary embodiment provides fixed spacing. The following relations compute the total area of all boiler and condenser shells:

$$A_{Total} = 2\pi L\sum_{i=1}^{N} R_i = 2\pi L[R_1 + R_2 + R_3 + \ldots + R_N] = 2\pi L\left[R_1 + \sum_{i=2}^{N} R_i\right]. \tag{11}$$

In this expression N is the number of boiler and condenser shells given by:

$$N = 12\frac{(R_N - R_1)}{\Delta R} + 1. \tag{11a}$$

This expression has the following definitions:

R_1 & R_N = Inner and outer shell radii; (ft) (11b)

ΔR = Separation between each shell; (inches) (11c)

R_i = Radius of each shell i; (ft) (11d)

L = Length of all shells; (ft). (11e)

PAGE 3/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

Designing the entire system to have a common separation ΔR between each shell minimizes production costs and maximizes output flow capacity. The following relations exist between the shell radius of the "ith" shell and the shell separation ΔR:

$$\begin{aligned} R_2 &= R_1 + \Delta R/12 \\ R_3 &= R_2 + \Delta R/12 = R_1 + 2\Delta R/12 \\ R_4 &= R_3 + \Delta R/12 = R_1 + 3\Delta R/12 \\ R_i &= R_{i-1} + \Delta R/12 = R_1 + (i-1)\Delta R/12\ ;\ i = 2, N \end{aligned} \tag{12}$$

Therefore, from equations (11) and (12) above, the sum of the radii is given by:

$$\sum_{i=2}^{N} R_i = \sum_{i=2}^{N} R_1 + \sum_{i=2}^{N}(i-1)\left(\frac{\Delta R}{12}\right) = (N-1)R_1 + \sum_{i=2}^{N}(i-1)\left(\frac{\Delta R}{12}\right). \tag{13}$$

The second sum term in equation (13) is evaluated incorporating the following terms:

$$\sum_{i=2}^{N}(i-1)\left(\frac{\Delta R}{12}\right) = \left(\frac{\Delta R}{12}\right)\left[1+2+3+\ldots+(N-3)+(N-2)+(N-1)\right]. \tag{14}$$

In the summation algorithm, each inner- and outer-most term adds up to N, and there are $(N-1)/2$ of those terms as shown:

$$\underbrace{\underbrace{\underbrace{i+(N-i)}_{\vdots}}_{3+(N-3)}}_{\underbrace{2+(N-2)}_{1+(N-1)}}. \tag{14a}$$

Therefore, the sum given by equation (14) is:

$$\sum_{i=2}^{N}(i-1)\left(\frac{\Delta R}{12}\right) = N\frac{(N-1)}{2}\left(\frac{\Delta R}{12}\right). \tag{15}$$

Substituting equations (13) and (15) into equation (11) gives the total area of all the boiler and condenser shells, which equals:

$$A_{Total} = 2\pi LN\left[R_1 + \frac{(N-1)}{2}\frac{\Delta R}{12}\right] \tag{16}$$

$$A_{Total} = 12\pi L\frac{(R_N + R_1)}{\Delta R}\left[(R_N - R_1) + \frac{\Delta R}{12}\right]. \tag{17}$$

In that equation, A_{Total} = Sum total of all the shell areas (ft^2) (17a)

R_1 = Inner most shell radius (ft) (17b)

PAGE 4/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

R_N = Outer most shell radius (ft) (17c)

ΔR = Separation between shells (inches) (17d)

N = Number of boiler shells (17e)

The weight of the boiler and condenser shells can be determined from their known weight density, shell thickness t and surface area A_{Total}. The weight is given by:

$$w_{shell} = \rho_{shell}\, V = \rho_{shell}\; t\, A_{Total}\, 144 \tag{18}$$

$$w_{shell} = \rho_{shell}\; t\, 288\pi L N\left[R_1 + \frac{(N-1)}{2}\frac{\Delta R}{12}\right] \tag{19}$$

$$w_{shell} = \rho_{shell}\; t\, 1728\pi L \frac{(R_N + R_1)}{\Delta R}\left[(R_N - R_1) + \frac{\Delta R}{12}\right] \tag{20}$$

In these expressions, ρ_{shell} = Weight density of boiler/condenser shells (lbs/in^3) (20a)

t = Shell thickness (inches). (20b)

Energy Requirements: As discussed previously, the source of energy or heat required for the boiling and condensing process comes entirely from the vapor compressor system **220**. The system is adjusted to operate near a boiling water vapor pressure that is commensurate with its ambient temperature. The proposed compressor creates a pressure ratio of about 1.05 to 1.25 on the water vapor that is able to boil at ambient temperature conditions (~70°F or 21°C) about 0.5 psi (0.035 kg/cm^2) or less. Consequently, the work done by the compressor is very low. See, e.g., Keenan, J.H. and Keyes, F.G., "Thermodynamic Properties of Steam" John Wiley & Sons, 1936, pp. 28-31.

Though the Keenan and Keyes process envisions a piston-cylinder pressure and volume change, conservation of energy makes the process general and applicable to all compressor designs. Only the input and output thermodynamic states (pressures) and the specific type of thermodynamic process are necessary to predict the energy requirements of the system.

Beginning from first principles, the following discussion presents an analysis of the compressor power requirements for the distillation process. This analysis computes the work performed by the compressor on the fluid by considering the process to be adiabatic, i.e., no heat energy flowing into or out of the compressor other than what is carried by the work done on the compressed fluid. For each "cycle" of the compressor, the relative amount of heat transferred to the compressor and its surroundings compared to the

PAGE 5/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

amount of heat transferred to the fluid is small and decreases with increased compressor efficiency. Inefficiency losses of the compressor result in reduced laminar kinetic flow of the vapor and increased turbulent kinetic flow. These losses are minimized with the appropriate compressor design. Still, the inefficiency losses of the compressor can still be applied to the end result to determine the approximate overall energy requirements for this distillation process.

In general, the work or energy required to compress a gas in a cylinder by a distance $d\vec{s}$ can be computed by noting that:

$$W = \int dW = \int_{S_1}^{S_2} \overline{F} \cdot d\vec{s} = \int_{S_1}^{S_2} pA\, ds = \int_{V_1}^{V_2} p\, dV. \tag{21}$$

In that equation, $W =$ Work or energy of compression (ft-lbs) (21a)

$p =$ Gas pressure (lbs/ft^2) (21b)

$V =$ Gas volume (ft^3). (21c)

The subscripts 1 and 2 in equation (21) refer to the two different states, i.e., input and output volumes or positions. These volume states convert to pressure states by an adiabatic gas law transformation. In this case, the input pressure p_1 is the boiling vapor pressure p_B while the output pressure p_2 is the condensing vapor pressure p_C. Sears, F. W. and Salinger, G. L., "*Thermodynamics, Kinetic Theory, and Statistical Thermodynamics*" 3rd Ed., Addison-Wesley 1975, pp. 108-109, described the governing equations. For adiabatic processes, the initial and final thermodynamic states are related by the following constant condition:

$$p_1 V_1^{\gamma} = p_2 V_2^{\gamma} = pV^{\gamma} = K. \tag{22}$$

In this expression K is a constant which can be eliminated, and γ is the ratio of specific heats at constant pressure to constant volume. The units for specific heat are (BTU/(lb °F)). The specific heat ratio γ, is defined by:

$$\gamma = \frac{C_p}{C_V} \tag{23}$$

and the specific heats are related to the gas molecular weight given by:

$$R = 778.6(C_p - C_V) = \frac{1544}{Gas\ Molecular\ Weight}. \tag{24}$$

PAGE 6/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

In this expression R is the universal gas constant with units of (Ft-lbs/(°F lb)). The work done by the compressor on the fluid can be computed by performing the integral given in equation (21). Substituting equation (22) into equation (21) and simplifying yields:

$$W = C_w \frac{\gamma}{(\gamma - 1)} p_1 V_1 \left[\left(\frac{p_2}{p_1} \right)^{\left(1 - \frac{1}{\gamma}\right)} - 1 \right]. \tag{25}$$

The units of work in equation (25) are in Watt-hours with the constant conversion factor C_W, which equals:

C_W = Constant conversion to Watt-hours = (746/(550 x 3600)). (25a)

Computing the required energy per pound of water distilled from the device is useful for specifying the energy efficiency of the thermodynamic compressor process. Typical units are in watt-hours per pound (W hr/lb). This can be computed by first determining the rate of energy expenditure, which is the time derivative of equation (25). During a continuous flow process, the input and output pressures are in a steady state condition. Consequently, the only temporal variable is the input volume V_1, flow rate. Therefore, the equation yields:

$$\dot{W} = C_w \frac{\gamma}{(\gamma - 1)} p_1 \dot{V}_1 \left[\left(\frac{p_2}{p_1} \right)^{\left(1 - \frac{1}{\gamma}\right)} - 1 \right]. \tag{26}$$

In this expression $\dot{W}$ is the power (watts) required for vapor compression.

Now $\dot{V}_1$ can be computed from the mass flow and density of the boiling vapor. This connects the energy requirements with the boiler and condenser mass flow output. Examining of units reveals the following relationship:

$$\dot{V}_1 = \frac{\dot{w}}{\rho_1}. \tag{27}$$

Where, $\dot{V}_1$ = Boiling vapor volume flow rate (ft^3/hr) (27a)

$\dot{w}$ = Mass flow of fluid vaporized (lbs/hr) given by equation (20) (27b)

ρ_1 = Vapor density of the boiled fluid (lbs/ft^3). (27c)

PAGE 7/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

The energy expenditure per pound of water produced E_ρ^{100}, for a perfectly efficient system, is computed by $\left(\dot{W}/\dot{w}\right)$. By substituting equation (27) into equation (26), the expected ideal "energy density" becomes:

$$E_\rho^{100} = C_W \frac{p_1}{\rho_1} \frac{1}{(\gamma - 1)} \left[\left(\frac{p_2}{p_1} \right)^{\left(1 - \frac{1}{\gamma}\right)} - 1 \right]. \tag{28}$$

Inefficiency losses of the vapor compressor and motor subsystem increase the actual energy density. If their combined inefficiency loss is ξ, the actual energy density is:

$$E_\rho^{\xi} = \frac{E_\rho^{100}}{x}. \tag{29}$$

The ratio of specific heats is required to solve the energy density E_ρ^{ξ}. Equation (24) is useful to eliminate from equation (23) the specific heat at constant volume, because only the specific heat at constant pressure is measurable. Substituting equation (24) into equation (23) yields:

$$\gamma = \frac{C_p}{C_p - \frac{1544}{778.6(MW)}}. \tag{30}$$

In this expression MW is the molecular weight (pounds/mole), which is 18 for water or water vapor.

The preceding equations are both temperature and pressure dependent, so the optimum thermodynamic cycle is a complex but determinable relation dependent upon the specific fluid type, ambient temperature and pressure, and contaminants in the fluid.

To appreciate the required energy consumption per pound of water produced by this process, computations were performed using equation (28) for a perfectly efficient vapor compression and motor system. Figure 28 shows a plot of these results.

The computations performed using equation (28) implicitly include the temperature dependent effects on the vapor density, the specific heat of the vapor and the input and output pressure states of the vapor. These effects are not explicitly shown in the equation.

PAGE 8/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

In the computation process, however, accurate curve fits using fifth order polynomials include these temperature dependencies.

In FIG. 28, the boiler pressure is p_1 or p_B and the condenser pressure is p_2 or p_C. Several families of pressure ratios (p_2 / p_1) are shown for comparison. The displayed pressure ratios are not directly apparent, but successful operation should occur with a boiler and condenser temperature differential of 4°F (2°C) or less. By reading the temperature values from the water vapor boiling curve of FIG. 29, temperature values can be assigned to these pressure values.

In FIG. 29, the increased work required to compress the gas as its density increases with pressure increases causes the general increasing trend for the family of curves of constant pressure ratio. It is not directly apparent that the condenser pressure increases faster than the boiler pressure with increasing boiler pressures. This is true, however. Therefore, the pressure differential Δp between the boiler and condenser must increase for constant pressure ratios and increasing boiler pressures. Consequently, the condenser pressure increases faster than the boiler pressure. Further, a faster increase in condenser pressure translates to an increase in condenser vapor density. This then causes the slight increase in compressor work for increased boiler pressures at fixed pressure ratios.

The family of curves shown in FIG. 29 has a decreasing work dependency as boiler temperatures increase. As the temperature increases for fixed boiler and condenser temperature differentials ΔT, the pressure ratios, (p_2 / p_1), decrease. See FIG. 28. Similarly, the vapor densities decrease with increased temperature. Therefore, slightly less work is required to compress the gas.

As previously mentioned, the motor and compressor inefficiencies increase actual system energy density. See equation (29). Figure 30 shows a sample computation of the system energy density for a wide range of efficiency losses and for several different thermodynamic cycles having varying boiler and condenser differential temperatures ΔT.

The data used in FIG. 30 are the energy density values corresponding to a boiler temperature of 70°F (21°C) with no inefficiency losses. Large electrical motors operate with efficiencies ranging from 93% to 95%. Therefore, 94% is a reasonable motor efficiency ξ_M. Likewise, jet aircraft compressors have efficiencies of 85% to 90% or better.

PAGE 9/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

Thus, one expects a conservative compressor efficiency ξ_C of 85%. The combined overall system efficiency should be equal to or greater than the following:

$$\xi = \xi_M x_C = (94\%)(85\%) = 80\%. \tag{31}$$

The data in FIG. 30 then represents the final expected system energy requirements per pound of water distilled assuming that no wasted heat from these inefficiency losses are utilized. They can be used effectively with appropriate heat exchangers to reduce the energy required even more.

The salinity concentrations present in seawater cause an increase in boiling temperature over pure water at the same pressure and temperature conditions. One can compute the increase in boiling point by using the linear relationship developed by Fabuss and Korosi for determining the boiling point rise of various seawater concentrations. See, e.g., Howe, E.D., "Fundamentals of Water Desalination," Marcel Dekker, Inc., 1974, p. 30, for a description of the linear relations between boiling point rise and salinity concentration. FIG. 31 and FIG. 32 show the graphical relations between the boiling point rise versus salinity concentration ratio at various seawater saturation temperatures. As an example, at ambient temperatures of 75°F (24°C), a triply concentrated salinity ratio results in slightly less than a 2°F (1°C) boiling rise increase. This boiling rise increase is the additional energy required when desalinating brine solutions instead of pure water.

The power costs required for the processes of the present invention can be computed by noting that the primary power source is the compressor shaft power. The system also requires an additional small amount of energy for rotational acceleration of the fluid in the boiler/condenser shells. Applicants estimate that additional energy to be approximately 0.2 W hrs/lb.

Electrical power from utilities and solar, diesel and other generators are well suited for powering the proposed water system. Assuming utility electrical power is utilized, the cost per acre-foot of water produced can be computed by the following simple relation:

$$\frac{\$}{Acre\ Foot} = \left(E_\rho^\xi\right)_{\frac{W\text{-}Hrs}{lb}} \left(C_\phi\right)_{\frac{\phi}{KW\cdot Hrs}} \left(\frac{1\$}{100\phi}\right)\left(\frac{1KW}{1000W}\right)\left(\frac{8.3454\ lbs\ water}{gallon}\right)\left(\frac{325,851\ gallon}{Acre\ Foot}\right) \tag{32a}$$

or

$$\frac{\$}{Acre\ Foot} = \left(E_\rho^\xi\right)\left(C_\phi\right)(27.194). \tag{32b}$$

PAGE 10/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

One acre-foot = 1.23 x 10^6 liters. In this expression E_ρ^ξ is the system energy density (FIG. 22) in Watt-hours per pound and C_ξ is the cost of electrical power that the utility charges in cents per kilowatt-hour.

In other applications such as toxic waste separation at a chemical plant, the costs for water separation draw much higher revenue per weight of input than ordinary water desalination draws. For these special applications, small systems may be more cost-effective than larger ones. Smaller systems have lower capital system costs even though the power input increases.

Operational considerations are a function of the total operational economics. Factors include the users needs in volume flow rate per dollar power costs, user specified practical system size constraints and capital equipment costs.

The following analysis summarizes the theoretically predicted heat transfer performance values resulting from a small ΔT temperature difference between the boiler and condenser that is being transferred to a thin film in a high g rotational field. This application addressed the effects of this high g rotational field on heat transfer. These higher g configurations (up to or greater than 1000 g) provide much higher heat transfer coefficients. Consequently, the overall boiler surface area can be decreased considerably. This makes manufacturing procedures simpler and less expensive. Accordingly, the total number of shells and the overall weight of the system can be reduced. This yields higher heat transfer coefficients. The system achieves these advantages because of the higher rotational g loads on a thin film boiling fluid.

The general relation which describes the boiling heat transfer coefficient in both the pool and nucleate boiling regimes is based on work by Rohsenow (*See,* for instance, *Handbook of Applied Thermal Design*, Eric C. Guyer, Editor in Chief, McGraw Hill 1989, pp. 1-79). Guyer references the original work of Rohsenow performed in 1952 using correlated experimental data. The relation developed by Rohsenow has the following general form:

$$\frac{(q/A)}{\Delta T_{SAT}} \equiv h_B = \mu_L \Delta h_{LG} (\Delta T_{SAT})^2 \left[\frac{g_N(\rho_L - \rho_G)/g_{grav}}{\sigma} \right]^{\frac{1}{2}} \left[\frac{C_{PL}}{C_{SF} \Delta h_{LG} P_{RL}^S} \right]^3 \tag{33}$$

PAGE 11/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

where the variables are defined as below with typical ranges for numerical values presented at ambient input temperatures of 70°F:

$h_B =$ Boiling heat transfer coefficient (150 to 15,000 (BTU/(hr ft^2°F))

$\mu_L =$ Fluid Dynamic Viscosity (2.33 (lb/(hr ft)))

$\Delta h_{LG} =$ Heat of Vaporization Water (1054.3 (BTU/lb))

$\Delta T_{SAT} =$ Saturation Temperature Difference (2 to 10 (°F))

$$g_N = C_N D N^2 = \frac{1}{2}\left(\frac{\pi}{30}\right)^2 D N^2 = \text{Rotational Acceleration (64 to 32,200 (ft/sec}^2\text{))} \quad (34)$$

$D =$ Shell Diameter (0.5 to 5 (ft))

$N =$ Rotational Speed (50 to 2500 (rpm))

$\rho_L =$ Fluid Weight Density (62.3 (lb/ft^3))

$\rho_G =$ Vapor Weight Density (1.15 x 10^{-3} (lb/ft^3))

$g_{grav} =$ Weight to Mass Conversion (32.2 (ft/sec^2))

$\sigma =$ Surface Tension at Liquid Vapor Interface (4.97 x 10^{-3} (lb/ft))

$C_{PL} =$ Specific Heat Fluid (0.998 (BTU/(lb°F))

$C_{SF} =$ Material Experimental Constant (0.0058 to 0.013 (No Units))

$P_{RL} = \left(\frac{C_{PL}\mu_L}{k_L}\right) =$ Prandtl Number of Fluid (6.64 (No Units))

$S =$ Exponent Constant (1.0 for Water & 1.7 All Other Fluids (No Units))

Equation (33) represents the expected boiling heat transfer coefficient assuming no forced flow mixing. Forced flow mixing typically increases boiling heat transfer rates by an order of magnitude when the driving ΔT is below 15°F (8°C). *See*, e.g., McAdams, W.H., *Heat Transmission*, McGraw Hill, 3d Ed., 1954, p. 378. The fluid film migrates along the boiler surface (with a vertical component of gravity depending upon shell orientation). The fluid also has enhanced movement due to increased longitudinal pressures that rotational forces induce. This mixed mode of heat transfer enhances the boiling heat transfer rates even more than equation (33) alone predicts.

Results of Boiling Heat Transfer Calculations: Figures 19-24 show a series of computations of the general trends, which occur with rotational g's on boiling heat transfer rates. These figures are both three-dimensional surface renditions and two-dimensional

PAGE 12/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

slice plots for two different boiler surface material conditions and three different ambient input temperatures. Some of the figures show the enhanced boiler heat transfer behavior with increased rotational g for a roughly coated Teflon® PTFE surface on a stainless steel shell at ambient input temperatures of 70°F, 90°F, and 110°F. This series employs a material characteristic coefficient that was empirically determined to be C_{SF} = 0.0058 for a rough Teflon coat on stainless steel. *See*, Guyer, pp. 1-79. When using rough Teflon coated stainless steel instead of polished stainless steel, a 262% increase in boiling heat transfer occurs. The second series shows similar results for a different boiler surface, namely polished stainless steel only. Here, the characteristic surface coefficient is C_{SF} = 0.0080. Physically, the performance is reduced for polished stainless steel compared to a rough surface coated Teflon on stainless steel because the roughened Teflon surface provides more locations for nucleate boiling sites. Surface wetting characteristics increase with the Teflon coating.

Observe that as the ambient temperature increases, the boiling heat transfer coefficient increases for the same temperature differences and same rotational g's. Physically, this occurs because the heat of vaporization reduces with increasing temperature. Therefore, more heat energy is transferred to a boiling fluid for the same ΔT.

The graphs show some advantage for operating the system at increased input ambient temperatures. This requires heating the incoming contaminated liquid, which costs energy. Of course, if the contaminated liquid comes directly from an industrial process, it may be at an elevated temperature. At higher temperatures, the system could employ an additional external set of heat exchangers to recover some of the increased enthalpy carried out with the pure water and waste brine. This approach may be beneficial for certain applications where very small size capital equipment is required and energy costs are less important.

Enhancing Boiling Heat Transfer Rates: One method or design enhancement aimed at increasing the boiling heat transfer is to increase the surface roughness of the boiler wall. An example would be to provide minute "grain-like" thin Teflon® coatings on the boiling surfaces. This provides a great multitude of nucleate source points on a material, which is normally a non-wetting surface. This enhances the formation of steam bubbles that immediately rises radially out of the film layer from high surface pressure induced g-

PAGE 13/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

forces. These high g forces provide a higher buoyancy force for the micro steam bubbles in the high g field and create increased micro convective currents. Achieving these higher induced heat transfer coefficients is not possible with stationary systems in a 1 g environment. Several sources in the literature show that the affect of a wettable coating alone increases the heat transfer coefficient by up to 300%. *See,* Kreith, F., *Principles of Heat Transfer,* International Textbook Co., 2d Ed., 1968, pp. 441-445; and Guyer, pp. 1-79.

Using anodized aluminum with a Teflon coating on the boiler is another possibility. First, aluminum reduces the tangential hoop stress in proportion to the ratio of material densities, and the density of aluminum is about 1/3 that of stainless steel. Consequently, the tangential stress decreases from 7600 psi at 850 g's to about 2525 psi for corrosion resistant aluminum. Aluminum also has very high thermal conductivity compared to stainless steel. Aluminum has a thermal conductivity of about 120 (BTU/(hr ft °F)) compared to stainless which has a value of about 10 (BTU/(hr ft °F)). The importance of high thermal conductivity in the wall material becomes greater when the heat transfer coefficients due to boiling and condensing become less of a limiting mechanism.

High vapor velocities (50 to several hundred feet per second) exiting the individual boiler and condenser shells enhance the boiler heat transfer structures. Sweeping contaminated fluid along the boiler wall surface is the mechanism for this enhancement. The sweeping of liquid creates turbulence, which aids in forced convection heat transfer at the vapor fluid interface.

Forced convection through gravity-induced high pressure injection of brine or contaminated liquid also enhances boiler heat transfer conditions. Fluid moving along the boiler wall surface removes stagnant regions and, thus, greatly enhances forced convection heat transfer characteristics. The annular boiler passage area of the system can be modified to achieve favorable vapor velocity with forced convection enhancement along the axial direction. Longitudinal segment dividers placed between both the boiler and condenser shell passage areas at various azimuth locations also may enhance nucleate boiling by convective mechanisms on the boiler surfaces and should enhance drop-wise condensation on the condenser surfaces.

Condensing Heat Transfer Coefficients and Enhancements: Condensing heat transfer coefficients are usually higher than boiling heat transfer coefficients. Conse-

PAGE 14/14 * RCVD AT 3/16/2009 5:09:37 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/44 * DNIS:2731450 * CSID:+805 230 1355 * DURATION (mm-ss):03-24

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

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

COPY MAILED
MAR 21 2008
OFFICE OF PETITIONS

In re Application of	:	
Sanjay M. Parekh et al	:	
Application No. 10/785,683	:	DECISION GRANTING PETITION
Filed: February 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04159.0001U5	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 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 December 22, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2153 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/20/08

Paper No.: —

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/785701 Patent No: 7293038 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: _____

APU MOFIZ
SUPERVISORY PATENT EXAMINER

MOFIZ APU
SPE

2161
Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Blevins et al. Patent No.: 7,293,038 Issued: Nov. 6, 2007	Application No.: 10/785,701 **REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323**

Commissioner for Patents
Office of Patent Publications
Attn: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

APPROVED: /C.N./

Dear Sir/Ma'am:

Pursuant to 37 CFR § 1.323, Applicant submits a Certificate of Correction correcting clerical errors or mistakes minor in character in the printed patent. The desired correction is set forth on the enclosed form PTO/SB/44.

These corrections do not involve changes, which would (1) constitute new matter or (2) require reexamination. *In re Arnott*, 19 USPQ 2d 1049, 1052 (Comm'r Pat. 1991).

The errors sought to be corrected were made by:

☐ the Patent and Trademark Office. Thus, no fee is required for the Certificate of Correction pursuant to 37 CFR §1.322.

☒ Applicant(s) (at least in part). Please charge the fee, as set forth in § 1.20(a), to Deposit Account 150635.

APPROVED: /C.N./

Patent No. 7,293,038

Request for Certificate of Correction

Please direct all inquiries concerning this request to the undersigned attorney at Telephone number 408-236-6687.

Respectfully submitted,

MAHAMEDI PARADICE KREISMAN, LLP

Christopher J. Brokaw
Reg. No. 45,620
Date: 2/3/2010

550 South Winchester Boulevard, Ste. 605
San Jose, CA 95128
Telephone: (408) 236-6687
Facsimile: (408) 236-6641

Attachment

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,293,038

APPLICATION NO.: 10/785,701

ISSUE DATE : Nov. 6, 2007

INVENTOR(S) : Blevins et al.

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On face page, in field 57, in column 2, under "Abstract", line 5, after "channel" insert - - . - -.

On page 2, in column 2, under "Other Publications", line 27–29, below "516." delete "Paul, Laura Gibbone, "RosettaNet: Teaching business to work together", Oct. 1, 1999. http://www.developer.com/xml/article.php/616641.".

On sheet 8 of 14, in Figure 9, line 4, after "[text()=" delete "PO']" and insert - - PO"] - -, therefor.

In column 3, line 26, delete "(ELB)" and insert - - (EJB) - -, therefor.

In column 14, line 4, in claim 7, delete "extranet" and insert - - extract - -, therefor.

In column 14, line 14, in claim 7, delete "falter," and insert - - filter, - -, therefor.

In column 14, line 21, in claim 8, delete "file" and insert - - the - -, therefor.

APPROVED: /C.N./

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Oracle Corporation
Legal (M/S 5op7)
500 Oracle Parkway
Redwood Shores, CA 94065

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

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	: Albert Gondi	: DECISION ON REQUEST FOR
Patent Number	: 7584474	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/785,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: 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.

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

SWANSON & BRATSCHUN, L.L.C.
8210 SOUTHPARK TERRACE
LITTLETON CO 80120

COPY MAILED

AUG 0 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,531,521
Issued: May 12, 2009
Application No. 10/785,704
Filed: February 24, 2004
Attorney Docket No. 0062.25

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" filed May 29, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred seven (207) days to five hundred six (506) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On May 12, 2009, the above-identified application matured into US Patent No. 7,531,521 with a patent term adjustment of 207 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 506 days, which includes 299 days of patent term adjustment due to exceeding three year pendency and 389 days due to USPTO delay in prosecution."

The 299-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 24, 2004, and the RCE being filed on December 20, 2007, three years and 299 days later. Patentees assert that in addition to this 299-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 389 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 182 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 (299 days) and the period of Examination Delay (389 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 688 days, which is the sum of the period of Three Year Delay (299 days) and the period of Examination Delay (389 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 506 days (299 + 389 reduced by 0 overlap – 182(applicant delay)).

The Office agrees that as of the filing of the RCE on December 20, 2007, the application was pending three years and 299 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 207 days is correct. At issue is whether patentees should accrue 299 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 389 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 299 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment

granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b) (I) (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 24, 2004 to December 20, 2007. During that time, the issuance of the patent was delayed by 389 days, not 389 + 299 days. The Office took 14 months and 389 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 389 days of Office delay and the 182 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 299 days until the filing of the RCE. The Office did not delay 389 days and then an additional 299 days. Accordingly, 389 days of patent term adjustment (not 389 and 299 days) was properly entered since the period of delay of 299 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 389 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 389 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 299 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

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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

SWANSON & BRATSCHUN, L.L.C.
8210 SOUTHPARK TERRACE
LITTLETON, CO 80120

Mail Date: 04/20/2010

Applicant	: Bruce P. Burnett	: DECISION ON REQUEST FOR
Patent Number	: 7531521	: RECALCULATION of PATENT
Issue Date	: 05/12/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/785,704	: OF WYETH
Filed	: 02/24/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

COPY MAILED
AUG 24 2004
OFFICE OF PETITIONS

In re Application of :
Mieher, et al. :
Application No. 10/785,723 : ON PETITION
Filing Date: February 23, 2004 :
Docket No.: KLA1P117X1C/P1151/4 :

The decision is in response to the "PETITION TO ACCORD FILING DATE AS OF DATE OF DEPOSIT AS "EXPRESS MAIL" UNDER 37 CFR §1.181 AND § 1.10(C)," filed March 29, 2004 to accord the above-identified application a filing date of February 23, 2004.

Petitioners' argue that the above-identified application was filed via USPS Express Mail service on February 23, 2004 and is thus entitled to a filing date of February 23, 2004.

Office records indicate the above-identified application has been accorded the requested filing date of February 23, 2004. Thus, the instant petition is **DISMISSED AS MOOT**.

No fee is due in connection with this matter.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Replacement Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUN 11 2009

OFFICE OF PETITIONS

VERIZON
PATENT MANAGEMENT GROUP
1320 NORTH COURT HOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2909

In re Application of
Jay Michael Ponte
Application No. 10/785,729
Filed: February 24, 2004
Attorney Docket No. 99-810 CON 1

ON PETITION

This is a decision in response to the petition, filed April 28, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before October 8, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 8, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on October 9, 2008. A Notice of Abandonment was subsequently mailed on November 4, 2008. On April 28, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

VERIZON
PATENT MANAGEMENT GROUP
1320 NORTH COURT HOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2909

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Jay Michael Ponte	:	
Application No.: 10/785,729	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No.: 99-810 CON 1	:	

This is a decision on the petition, filed July 17, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 28, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2131 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO IL 60606-1080

COPY MAILED

JAN 26 2005

OFFICE OF PETITIONS

In re Application of	:
Daniel C. Chick	:
Application No. 10/785,733	: DECISION REFUSING STATUS
Filed: February 24, 2003	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 70025100.0008	:

This is in response to the petition under 37 CFR 1.47(b), filed November 17, 2004. Applicant obtained a four-month extension of time to reply. Accordingly, the petition is filed timely.

The petition is **dismissed**.

Applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On February 24, 2003, applicant filed the above-identified application without an executed oath or declaration. On May 17, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, *inter alia*, an executed oath or declaration and surcharge.

In response, on November 17, 2004, applicant filed the present petition, a request for a four-month extension of time to reply, and an executed declaration from the parent application.

In the present petition, James H. Riley, II, states:

> The 37 CFR 1.47(b) Applicant is Action Box Company, Inc., a corporation. The corporate representative, Tom Rodriguez, is the Controller for Action Box Company, Inc. He declares that in May 2004, Daniel Chick left

> the employment of Action Box Company, Inc., and did not leave a forwarding address. To his knowledge, Daniel Chick has not contacted anyone at Action Box Company, Inc., and there is no reasonable way for Action Box Company, Inc. to know of his whereabouts.

Petition dated November 17, 2004, p.1.[1]

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant's petition lacks item (1), (2), (5) and (6) set forth above.

As to item (1), applicants have failed to submit sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. See MPEP 403.03(d). If attempts to obtain a forwarding address and to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicants will have provided the necessary proof required under 37 CFR 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with firsthand knowledge of the details. Applicants should submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an E-mail or Internet search.

As to item (2), applicant has not presented an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 37 CFR 1.64. The Office notes that pursuant to Section 409.03(b)(A) of the Manual for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the

---

[1]The Office did not receive a declaration from Mr. Rodriguez attesting to the facts stated above. The Office notes that all facts concerning the refusal to join an application or the diligent efforts made to locate a nonsigning inventor must be submitted by a person with firsthand knowledge of the events.

> application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Applicant must submit a declaration with a blank signature block setting forth the inventor by name. The declaration must identify the inventor's country of citizenship and mailing address. Lastly, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

As to item (5), applicant failed to show or provide proof that Action Box Company, Inc. has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the employment agreement between the non-signing inventor and Action Box Company, Inc., a copy of an assignment agreement showing that the invention disclosed in the application is assigned to Action Box Company, Inc., or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Action Box Company, Inc.

As to item (6), applicant failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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

Sonnenschein Nath & Rosenthal, LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago IL 60606-1080

COPY MAILED
OCT 1 1 2005
OFFICE OF PETITIONS

In re Application of	:	
Daniel C. Chick	:	DECISION REFUSING STATUS
Application No. 10/785,733	:	UNDER 37 CFR 1.47(b)
Filed: February 24, 2004	:	
Attorney Docket No. 70025100-0008	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed August 15, 2005.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks items (1), (2), (5) and (6) as set forth above.

Accordingly, the petition is dismissed.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

As to item (1), Tom Rodriguez stated that he prepared a declaration and called the non-signing inventor, Daniel Chick, several times to obtain his signature on the document. Mr. Rodriguez asserted that the inventor did not make himself available to sign the declaration. Furthermore, James H. Riley, II, attorney of record, declared that Mark Wisner, the attorney representing Mr. Chick, contacted him and indicated that the inventor wanted to be compensated for signing the declaration. Mr. Riley stated that Action Box Company, Inc. (Action Box) would not pay the inventor to sign a document that he is obligated to sign.

Although a request for compensation to sign a declaration may be considered as a constructive refusal, applicant should send a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the last known address of the non-signing inventor, or if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney. MPEP 409.03(d). It is reasonable for the Office to require that applicant present the inventor with the application papers before a petition under 37 CFR 1.47 is granted because such a procedure ensures that the inventor is apprised of the application to which the declaration is directed. *In re Gray*, 115 USPQ 80 (Comm'r Pat. 1956).

Proof 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 for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. MPEP 409.03(d). When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. *Id.* When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. *Id.* A person with firsthand knowledge of the events surrounding the refusal must make the statement of facts.

As to item (2), applicant did not submit a declaration in compliance 37 CFR 1.63 and 1.64 with the present petition. Pursuant to MPEP 409.03(b)(A):

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. **Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf.** Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Tom Rodriguez, the Chief Financial Officer for Action Box, signed the declaration submitted on petition on behalf of the non-signing inventor. However, Mr. Rodriguez is not the President, Vice-President, Secretary, Treasurer, or Chief Executive Officer of Action Box. Additionally, applicant did not submit any proof that Mr. Rodriguez was authorized to act on behalf of Action Box. With any

renewed petition, applicant must submit a new declaration in compliance with MPEP 409.03(b)(A) as stated above.

As to item (5), applicant failed to show that Action Box has sufficient proprietary interest in the subject matter to justify the filing of the application. Pursuant to MPEP 409.03(f):

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted.... A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

In the present petition, applicant stated that applicant enclosed a copy of a declaration and assignment signed by Mr. Chick, relating to the parent application.[1] Unfortunately, these documents were not located with the papers submitted on petition.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] The Office notes that in the case of a divisional or continuation application, a prior assignment recorded against the original application is applied to the divisional or continuation application. MPEP 306. However, in the case of a continuation-in-part application, a prior assignment of the original application is not applied to continuation-in-part application. *Id.* In a continuation-in-part application, an applicant must submit a new assignment. *Id.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No.

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

DEC 0 1 2004

OFFICE OF PETITIONS

In re Application of :
Nobuyuki Saika :
Application No. 10/785,749 : DECISION ON PETITION
Filed: February 23, 2004 :
Attorney Docket No. 16869W-107100US:

This is a decision on the "Request for Withdrawal of Notice of Incomplete Nonprovisional Application," filed November 12, 2004, requesting that the above-identified application be accorded a filing date of February 23, 2004.

Application papers in the above-identified application were deposited on February 23, 2004. However, on October 18, 2004, the Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was filed without a specification.

In response, applicants timely filed the instant petition, asserting that a complete copy of the patent application, including 48 pages of specification, was mailed to the U.S. Patent Office, via Express Mail on February 23, 2004. In support thereof, applicant submits a copy of the specification as originally submitted, as well as, a copy of their itemized return postcard with an Office date-stamp thereon of February 23, 2004.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Petitioner's postcard listed among the items being filed "Specification 48 pages" and bore an Office date-stamp of receipt of February 23, 2004 for the papers assigned application No. 10/785749. There was no notation of non-receipt of any item listed on the return postcard. Thus, it is concluded that applicant has shown that the application as filed on February 23, 2004 included 48 pages of Specification.

A review of the 48 pages of specification confirms that those pages included at least one claim, and thus, the application is entitled to a filing date of November 28, 2001.

The Notice of Incomplete Application mailed October 18, 2004 was mailed in error, and is hereby **withdrawn**.

In view thereof, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is subject to refund. Accordingly, no petition fee is required.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has, thereby, been forwarded to OIPE for:

- **correction of the filing date to February 23, 2004**, using the application papers received in the Office on that date, and the 48 pages of specification, including 5 pages of claims and 1 page of abstract re-supplied on petition filed November 12, 2004.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAY 2 5 2006

Technology Center 2100

CHUN-POK LEUNG
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of: OKADA, et al.
Application No. 10/785,749
Filed: 23 February 2004
For: FILE SYSTEM AND FILE TRANSFER METHOD BETWEEN FILE SHARING DEVICES

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed 8 August 2005, to make special under 37 CFR §102(d) and MPEP §708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
JUN 2 5 2005
Technology Center 2100

In re Application of: MASUDA, et al.
Application No. 10/785,759
Filed: February 23, 2004
For: INFORMATION PROCESSING SYSTEM, METHOD FOR OUTPUTTING LOG DATA, AND COMPUTER-READABLE MEDIUM STORING A COMPUTER SOFTWARE PROGRAM FOR THE SAME

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 11 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 11 April 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to point out how each reference defines over each independent claim. Some of the limitations purported to distinguish independent claims 1, 7, and 13 from the references are not in these claims. For example, these claims fail to specify either "detection of anomalies" or "speed based load evaluations". Additionally, for each of the references deemed most closely related, petitioner states that the "reference *appears to* fail to either anticipate or render obvious at least the following limitation" (emphasis added). It is not clear if petitioner is asserting that the reference fails to teach a particular feature or not. Consequently, petitioner fails to point out the specific distinctions believed to render the claims patentable.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 2 5 2006

Technology Center 2100

In re Application of: MASUDA, et al.
Application No. 10/785,759
Filed: 23 February 2004
For: INFORMATION PROCESSING SYSTEM, METHOD FOR OUTPUTTING LOG DATA, AND COMPUTER-READABLE MEDIUM STORING A COMPUTER SOFTWARE PROGRAM FOR THE SAME

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed 01 August 2005, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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

SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

COPY MAILED

AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of
Frank H. Copen, David K. Huehner, and
Richard E. Corney
Application No. 10/785,760
Filed: February 24, 2004
Attorney Docket No. 1796005US5AP
Title: THEFT DETERRENT DEVICE

DECISION ON PETITION UNDER
37 C.F.R. §1.47(A)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed August 2, 2004.

On February 24, 2004, the application was deposited without an oath or declaration, identifying Frank H. Copen, David K. Huehner, and Richard E. Corney as joint inventors. On May 17, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and the surcharge associated with the late submission of the same. This Notice set a two-month period for reply.

With the instant petition, Petitioner has also submitted the associated fee, a statement of facts, a declaration which has been executed by joint inventor Huehner, the surcharge, and copies of both letters which were sent to the non-signing inventors and the accompanying return receipts.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR §1.47(a).

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventors at the addressees given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 3600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Frank H. Copen
3704 Newkirk Road
Shreve, OH 44676

COPY MAILED
AUG 3 0 2004
OFFICE OF PETITIONS

In re Application of :
Frank H. Copen, David K. Huehner, and Richard E. Corney :
Application No. 10/785,760 :
Filed: February 24, 2004 :
Attorney Docket No. 1796005US5AP :
Title: THEFT DETERRENT DEVICE :

LETTER

Dear Mr. Copen:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

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

Richard E. Corney
4894 Provens Road
Akron, OH 44319

COPY MAILED

AUG 3 0 2004

OFFICE OF PETITIONS

In re Application of :
Frank H. Copen, David K. Huehner, and Richard E. Corney :
Application No. 10/785,760 : LETTER
Filed: February 24, 2004 :
Attorney Docket No. 1796005US5AP :
Title: THEFT DETERRENT DEVICE :

Dear Mr. Corney:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor .

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 305-0011. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 1 3 2008

OFFICE OF PETITIONS

DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

In re Application of :
LEICK, ROBERT T. : DECISION ON PETITION
Application No. 10/785,764 :
Filed: 02/24/2004 :
Attorney Docket No. L754.101.101 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2008, to revive the above-identified application.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on January 3, 2008, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on April 4, 2008. A Notice of Abandonment was mailed on April 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Data Management for issuance of a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

COPY MAILED

JUL 25 2006

OFFICE OF PETITIONS

In re Application of

Richard Doll Lane :

Application No. 10/785,767

: DECISION ON PETITION

Filed: February 23, 2004

:

Attorney Docket No. 030101

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper reply in a timely manner to the final Office action mailed June 29, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. A response was filed on December 22, 2005, with a request for an extension of time within the third month. An Advisory Action mailed January 12, 2006 advised petitioner advised that the response of December 22, 2005, failed to place the application in condition for allowance. A Notice of Abandonment was mailed March 3, 2006.

The Request for Continued Examination filed March 20, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2600, GAU 2611 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTMAN CHAMPLIN & KELLY
SUITE 1400 - INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

COPY MAILED

JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
J. Martin Carlson	:	
Application No. 10/785,791	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. T291.12-0015	:	

This is a decision on the petition, filed June 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 June 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3743 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

COPY MAILED
FEB 18 2005
OFFICE OF PETITIONS

In re Application of :
Markus Hehli et al. :
Application No. 10/785,795 : DECISION ON PETITION
Filed: February 23, 2004 :
Attorney Docket No.: :
8932-824-999 :
Title: DEVICE FOR LIMITING A :
TORQUE TO BE TRANSFERRED :

This is a decision on the petition filed November 2, 2004, requesting that the specification of the above-identified application be accorded a filing date of February 23, 2004, as part of the original disclosure.

The application was deposited on February 23, 2004. However, on October 19, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application (notice)", stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the receipt of a specification. The notice further indicated that an executed oath or declaration would be required, and set a two-month period for response.

In response, on November 2, 2004, Petitioner filed the present petition. The petition is further accompanied by an executed declaration along with the associated surcharge, as well as a clean copy of the specification. Petitioner asserts that the Preliminary Amendment which was received on filing was intended to serve as the specification.

35 U.S.C. 112 Specification.
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
A claim may be written in independent or, if the nature of the case admits, in dependent or multiple dependent form.
Subject to the following paragraph, a claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.
A claim in multiple dependent form shall contain a reference, in the alternative only, to more than one claim previously set forth and then specify a further limitation of the subject matter claimed. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of the particular claim in relation to which it is being considered.
An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

(Amended July 24, 1965, Public Law 89-83, sec. 9, 79 Stat. 261; Nov. 14, 1975, Public Law 94-131, sec. 7, 89 Stat. 691.)

It is noted that the Preliminary Amendment Petitioner submitted on filing contains a written description of the invention, and concludes with more than one claim. It is further noted that Petitioner submitted drawings on filing. As such, it would appear that Petitioner is entitled to a filing date.

Accordingly, the petition is **GRANTED**.

The notice mailed October 19, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 23, 2004, using the original application papers filed on that date, and for indication in Office records that the 10 page specification and 6 pages of claims were present on filing. OIPE will then mail a filing receipt.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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

BRENDA POMERANCE
LAW OFFICE OF BRENDA POMERANCE
260 WEST 52 STREET SUITE 27B
NEW YORK NY 10019

COPY MAILED
JUN 16 2006
OFFICE OF PETITIONS

In re Application of :
Toshio Hosogai :
Application No. 10/785,798 : DECISION ON PETITION
Filed: February 24, 2004 : UNDER 37 C.F.R. §1.137(f)
Attorney Docket No. 0815-4004 :
Title: REVERSIBLE WELT PATCH :
POCKET :

This is a decision on the petition filed on January 9, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

A grantable petition pursuant to 37 CFR 1.137(f) must be accompanied by:

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on February 22, 2005. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

Petitioner has failed to submit a Notice of Rescission of Nonpublication Request. Petitioner has instead included a statement with the present petition. 37 C.F.R. §1.137(f) requires a statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(f), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(f) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

The petition under 37 C.F.R. §1.137(f) is **GRANTED**.

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made a statement which is being construed as the proper statement of unintentional delay.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected

publication date of September 21, 2006 accompanies this decision on petition.

Technology Center 3700 will be notified of this decision.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 15 2004

In re Application of	:	
Edward Vincent Fabrizio	:	
Application No. 10/785,813	:	DECISION ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. EE9-001	:	

This is a decision on the petition to make special filed on February 24, 2004. The petition is based upon the practice described in MPEP § 708.02(VI) "Energy." Therefore, no petition fee is required.

The petition is granted.

The petition to make special based upon the practice in MPEP § 708.02(VI) is deemed to satisfy all of the requirements therefore. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the next action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3742 is being informed of this decision, and will advise the examiner to take future action consistent therewith. The granting of this petition is not to be considered as an endorsement of the allegations contained in the petition.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

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

INTERNATIONAL TRUCK INTELLECTUAL PROPERTY COMPANY,
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

COPY MAILED

MAR 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
NELSON, et al.	:	
Application No. 10/785,815	:	DECISION ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. **D5569**	:	

This is a decision in response to the petition filed March 22, 2007, to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 and the petition under 37 CFR 1.137(b) to revive the above-identified application filed March 22, 2007.

A review of the record discloses that the application became abandoned for failure to pay the issue fee and publication fee on or before February 7, 2007. A Notice of Abandonment was mailed on March 12, 2007. In response, on March 22, 2007, a petition under 37 CFR 1.181 was filed wherein petitioners argue that the abandonment should be withdrawn. Petitioners explain that the issue fee was timely submitted on December 11, 2006. An alternative petition to revive under 37 CFR 1.137(b) was also filed.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED.**

Petitioner state that "it was clear that Applicant actually intended to pay the issue fee, having faxed the signed PTOL-85B issue fee transmittal form to the USPTO on December 11, 2006 and had filed a general authorization to pay fees prior to the mailing of the Notice of Allowance." In support, petitioner provides a copy of the original fee transmittal sheet filed December 11, 2006. Petitioner's argument is not well taken. Part B of the Notice of Allowance and Fee(s) Due form was submitted on March 22, 2007. However, when the Office attempted to charge the issue and publication fee, no deposit account number was listed. In regard to the "general authorization to pay fees," it is noted that the transmittal letter includes a specific authorization to charge an amount to the deposit account and does not include a general authorization to charge fees to this deposit account. Consequently, the application was properly held abandoned. Thus, the petition to revive under 37 CFR 1.137(b) is necessary and a decision thereon follows.

The petition to revive under 37 CFR 1.137(b) 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 requisite issue/publication fee; (2) the fee of $1,500; 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 inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253. Telephone inquires related to processing at Office of Data Management should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

09/08/04

Eric L. Prahl
Wilmer Cutler Pickering Hale & Dorr LLP
60 State Street
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/785829 received on 07/28/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN R. ROSS
TREX ENTERPRISES
10455 PACIFIC CENTER CT.
SAN DIEGO CA 92121

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Engelmann et al.	:	
Application No. 10/785,833	:	ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 521	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 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 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

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

COPY MAILED

APR 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Engelmann et al.	:	
Application No. 10/785,833	:	DECISION ON PETITION
Filed: February 23, 2004	:	
Attorney Docket No. 521	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2826 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SYNGENTA CROP PROTECTION, INC.
PATENT AND TRADEMARK DEPARTMENT
410 SWING ROAD
GREENSBORO, NC 27409

COPY MAILED

JUN 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Walter et al.	:	
Application No. 10/785,836	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. PF/5-31273B/D1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 6, 2005, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A restriction requirement was mailed on January 11, 2005, which set a shortened statutory period for reply of one (1) month, along with the option of extending the period for reply up to five (5) months. With a five-month extension of time, the period for reply does not end until July 11, 2005.

Petitioner has submitted a three-month extension of time with the instant petition. However, a three-month extension of time would only extend the period for reply until May 11, 2005. A four-month extension of time would make the response submitted with the instant petition timely. Accordingly, petitioner's deposit account will be charged an additional $570.00, totaling $1590.00 when combined with the $1020.00 fee already submitted, to accommodate a four-month extension of time.

As a petition under 37 CFR 1.137(b) is unnecessary at this time, the petition fee of $1500.00 will be credited to petitioner's credit card in due course.

This matter is being referred to Technology Center 1600 for further examination on the merits.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/24/07

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/785848 Patent No: 7267231 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Office Error was corrected by Cert. of Correction

THOMAS M. LITHGOW
PRIMARY EXAMINER
GROUP 1700

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE

1797
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: S.S. Satyanarayana Damarla	: DECISION ON REQUEST FOR
Patent Number	: 7673002	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/785,873	: OF WYETH
Filed	: 02/24/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS CA 91367

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Patent No. 7,347,651 :
Issued: March 25, 2008 :
Application No. 10/785,900 : ON PETITION
Filed: February 23, 2004 :
Attorney Docket Number: RICHT-45581 :

This is a decision on the petition, filed August 12, 2008, 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the correct name of the assignee, was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

---

[1] *See* Official Gazette of June 22, 2004

A request for a certification of correction was filed July 23, 2008 and was dismissed in a decision mailed August 4, 2008 since the request was not accompanied by a petition under 37 CFR 3.81 and the proper fees.

Office assignment records reflect that AIRBUS DEUTSCHLAND GMBH is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

The fee for the certificate of correction and the petition fee have been properly applied.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

Patricia Faison-Ball

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

AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

COPY MAILED
AUG 20 2008

In re Application of	:	
BASSO et al.	:	DECISION ON PETITION
Application No. 10/785,905	:	
Filed: 02/24/2004	:	
Attorney Docket No. 113025-CON	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee and publication fee as required by the Notice of Allowance and Fee(s) Due mailed on January 29, 2008, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on April 30, 2008. A Notice of Abandonment was mailed on May 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Data Management for issuance of a patent.

Telephone inquiries concerning the issuance of the application into a patent should be directed to the Office of Data Management, Customer Service at (571) 272-4200.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

COPY MAILED

JUL 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Handke, et al.	:	
Application No. 10/785,915	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. 4452-616	:	

This is a decision on the papers styled, "Petition For Filing Date," filed on June 14, 2004, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of February 24, 2004, including Figure 6 as described in the specification.

The application was filed on February 24, 2004. However, on May 17, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s)" (Notice) that stated the application had been accorded a filing date, but Figure 6 as described in the specification appears to have been omitted.

In response, on June 14, 2004 the instant petition and one (1) sheet of drawings (which include Figure 6) were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "Six (6) sheets of drawing (Figs. 1 to 6)," on February 24, 2004. A review of the application file indicates the presence of only five (5) sheets of drawings originally filed on February 24, 2004, with the sheet containing Figure 6 missing. It is assumed that the missing sheet of drawings containing Figure 6 was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee submitted on June 14, 2004 will be refunded to deposit account no. 03-2412.

This application will be returned to OIPE for processing with a filing date of February 24, 2004, using the one (1) sheet of drawings, containing Figure 6, that was submitted with the petition on June 14, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)306-9200.

Edward J. Tannouse
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BELL, BOYD & LLOYD, LLP
P.O. Box 1135
CHICAGO IL 60690

COPY MAILED

JAN 2 6 2007

OFFICE OF PETITIONS

In re Application of :
FRANKS :
Application No. 10/785,917 : DECISION ON PETITION
Filed: March 24, 2004 :
Attorney Docket No. 79798 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned for failure to timely pay the issue/publication fees and failure to submit corrected drawings on or before November 30, 2006, as required by the Notices of Allowance/Allowability, mailed August 31, 2006 . Accordingly, the date of abandonment of this application is December 1, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks corrected drawings.

The issue fee has been received. However, there is no indication that corrected formal drawings as required by the Notice of Allowability of November 30, 2006 have been submitted. Accordingly, this application cannot be revived until corrected formal drawings have been submitted.

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 Monica Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/785,917	02/24/2004	George J. Franks JR.	79798

CONFIRMATION NO. 8643

OC000000022167598

24573
BELL, BOYD & LLOYD, LLP
P.O. Box 1135
CHICAGO, IL 60690

Date Mailed: 01/25/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BELL, BOYD & LLOYD, LLP
P.O. Box 1135
CHICAGO, IL 60690

COPY MAILED

MAY 0 2 2008

OFFICE OF PETITIONS

In re Application of :
FRANKS, George J. Jr. :
Application No. 10/785,917 : DECISION ON PETITION
Filed: February 24, 2004 :
Attorney Docket No. **79798** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely pay the issue/publication fees and failure to submit corrected drawings on or before November 30, 2006, as required by the Notices of Allowance/Allowability, mailed August 31, 2006. Accordingly, the date of abandonment of this application is December 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, the publication fee of $300, and corrected drawings; (2) the petition fee of $750; 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

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

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/26/2010

Applicant	: Yun Luo	: DECISION ON REQUEST FOR
Patent Number	: 7636479	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/785,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1702** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT W. J. USHER
PATENT AGENT
1133 BROADWAY, #1515
NEW YORK, NY 10010

COPY MAILED

NOV 09 2004

OFFICE OF PETITIONS

In re Application of
Mark E. Hartelius
Application No. 10/785,926
Filed: February 23, 2004
Attorney Docket No. 1503

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED** because it lacks the required petition fee pursuant to 37 CFR 1.17(t). Effective October 1, 2004, the fee for a petition to accept an unintentionally delayed claim under 37 CFR 1.78(a)(6) was increased to $1,370 for a large entity. The fee is subject to a 50% reduction for small entities that have established status under 37 CFR 1.27.

It is noted that a Notice to File Missing Parts of Nonprovisional Application was mailed on May 17, 2004, requiring the statutory basic filing fee, an oath or declaration under 37 CFR 1.63 and the surcharge as set forth in 37 CFR 1.16(e). While an executed declaration in compliance with 37 CFR 1.63 accompanied the present petition, the requisite fees were not submitted. Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, all the requisite fees must be submitted, along with a renewed petition under 37 CFR 1.78(a)(6). Please note the enclosed fee schedule for the revised fee amounts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop PETITION
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

ROBERT W. J. USHER
PATENT AGENT
1133 BROADWAY, #1515
NEW YORK, NY 10010

COPY MAILED

NOV 16 2004

OFFICE OF PETITIONS

In re Application of	:	
Mark E. Hartelius	:	
Application No. 10/785,926	:	DECISION ON PETITION
Filed: February 23, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 1503	:	

This is a corrected decision in response to a petition, filed August 19, 2004, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment. The decision mailed November 9, 2004, is hereby vacated.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on February 23, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/449,038, which was filed on February 21, 2003, for which priority is claimed. A reference to the prior-

filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/449,038 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application was mailed on October 1, 2004.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being forwarded to Technology Center AU 3644 for appropriate action on the amendment submitted August 19, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/449,038.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances M. Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-7-06

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/785931 Patent No.: 7112033

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 check C of C

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

Edward Look — SPE

3745 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

COPY MAILED
JUL 14 2006
OFFICE OF PETITIONS

In re Application of :
Koga et al. :
Application No. 10/785,947 : ON PETITION
Filed: February 26, 2004 :
Attorney Docket No. NIT-412 :

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed January 25, 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 March 29, 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 June 30, 2005. A Notice of Abandonment was mailed on November 18, 2005.

Petitioner asserts that the non-final Office Action mailed on March 29, 2005 was never received. A review of the record indicates the non-final Office Action was mailed to an incorrect correspondence address. It appears the correspondence address was taken from the declaration. However, pursuant to MPEP 601.03 :

> 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.

A review of the record shows that the address where petitioner receives mail is contained on the application transmittal form. Accordingly, the non-final Office Action was mailed to the incorrect address.

This application is being forwarded to Art Unit 2859 for re-mailing of the non-final Office Action to the current correspondence address of record. The three month extendable

time period for reply will be set to run from the mailing date of the non-final Office Action.

Telephone inquiries concerning 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

OFFICE

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

In re Application of		
SAIGOH, KAORU , et al.	:	
Application No. 10/785,953	:	**DECISION ON PETITION**
Filed: February 26, 2004	:	
Attorney Docket No. 042134	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment Under 37 C.F.R. § 1.181(a), received in the United States Patent and Trademark Office (USPTO) on July 27, 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 MONTHS (2) from the mail date of this decision.

The application was held abandoned for failure to timely pay the issue fee within the statutory period of three months, as required in the Notice of Allowance and Fee(s) Due mailed February 13, 2006. Accordingly, the Notice of Abandonment was June 28, 2006.

Petitioner states that the Applicants prepared and filed payment of $1,709.00, which included the issue fee and publication fee, plus the fee for three copies of the patent. Also, that Part B – Fee(s) Transmittal Sheet submitted with the payment was inadvertently prepared under the incorrect Attorney Docket No. 042123, associated with Application Serial No. 10/781,811. In support thereof, Petitioner list as enclosures: copy of postcard, copy of check stub, copy of Part B – Fees Transmittal Sheet dated May 9, 2006, and copy of Part B – Fees Transmittal dated July 5, 2006.

The copy of Part B Fees - Transmittal dated May 9, 2006 was not received by the USPTO.

Investigation of the above-identified application and patent application 10/781,811 reveals that the Office did in fact receive Part B – Fee(s) Transmittal identifying the application serial no. 10/781,811. The Transmittal was not an original form that is mailed by the Office and could not be since the afore-mentioned application was never allowed and no Notice of Allowance and Fee(s) Due or Fee(s) Transmittal forms were ever mailed.

The holding of abandonment in an application will be withdrawn where there is a clear error on the part of the USPTO. In the instant case, it is apparent that Part B – Fee(s) Transmittal for application serial no. 10/785,953 was not timely submitted, but an incorrect Transmittal was submitted in place thereof. As such, the application became abandoned as a result of an error on the part of the applicant, not the USPTO.

Moreover, the Applicant had chosen to submit their version of the Transmittal instead of the Transmittal provided by the USPTO.

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 must be accompanied by the following:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee set forth in § 1.17(l);
(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

■ Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application must be accompanied by the following:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250 Ext 164.

Pubs Image Assistance Center
Kendrick Spruill
Kendrick Spruill

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

WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

COPY MAILED

MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Kaoru Saigoh	:	
Application No. 10/785,953	:	ON PETITION
Filed: February 26, 2004	:	
Attorney Docket No. 042134	:	

This is a decision on the petition filed November 1, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed February 13, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 14, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
JUL 21 2005
Technology Center 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD, SUITE 370
ALEXANDRIA, VIRGINIA 22314

In re Application of: MINEMATSU
Application No. 10/785,972
Filed: February 26, 2004
For: STORAGE SYSTEM, STORAGE CONTROL DEVICE AND CONTROL METHOD FOR STORAGE SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII)

This is a response to the petition filed April 27, 2005 and supplemental petition filed June 23, 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

7/18/05

AWK

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

MAY 05 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of	:	
Takashi ASAKO	:	
Application No. 10/785,974	:	DECISION ON PETITION
Filed: February 26, 2004	:	TO MAKE SPECIAL
For: **SYSTEMS AND METHOD FOR DATA MULTIPLEXING**	:	

This is a decision on the petition filed April 22, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAR 17 2006

Technology Center 2100

In re Application of:
Akitsugu KANDA
Application No. 10/785,975
Filed: February 26, 2004
For: AUTHENTICATION DEVICE AND COMPUTER SYSTEM

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 06 September 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 06 September 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: ENKO
Application No. 10/785,976
Filed: February 26, 2004
For: DATA PREFETCH IN STORAGE DEVICE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 12 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

The petition filed 12 April 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The discussion fails to discuss each of the references; only two of the references are discussed in any detail. Petitioner should ensure that the above discussion is directed to how the language of **each** of the independent claims is **specifically** distinguishable and patentable from **each** of the references provided in requirement (d) above.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

DEC 30 2005

TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of: ENKO
Application No. 10/785,976
Filed: February 26, 2004
For: DATA PREFETCH IN STORAGE DEVICE

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the renewed petition filed 21 June 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The renewed petition was filed in response to a dismissal of the original petition filed 12 April 2005. The petition was dismissed for failure to provide a detailed discussion of the references, which discussion points out with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references. Specifically, it was noted that only two of the references were discussed in any detail.

Applicants' submission filed 21 June 2005 corrects the deficiency noted in the original decision. Specifically, it has been clarified that the two references discussed in detail are the only references deemed most closely related. The combined submissions meet all the criteria set out in the previous decision. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED
DEC 14 2005
TECHNOLOGY CENTER 2100

In re Application of: HARA, et al.
Application No. 10/785,995
Filed: February 26, 2004
For: FILE MIGRATION METHOD BASED ON ACCESS HISTORY

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 21 November 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.
40 KING STREET WEST
BOX 401
TORONTO, ON M5H 3Y2
CANADA

Mail Date: 04/21/2010

Applicant	: Russell Norman Owen	: DECISION ON REQUEST FOR
Patent Number	: 7596622	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/786,004	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1199** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

May 13, 2009

James A. Oliff
P. O. Box 320850
Alexandria, VA 22320-4850

Patent No.: 7,141,357 B2
Application No.: 10/786,048
Inventor(s): Yoshitaka Sasaki, et al.
Issued: November 28, 2006
Title: **METHOD OF MANUFACTURING THIN-FILM MAGNETIC HEAD**

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) 756-1591

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

COPY MAILED

JUL 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,141,357 :
Issue Date: November 28, 2006 :
Application No. 10/786,048 : ON PETITION
Filed: February 26, 2004 :
Attorney Docket No. 118861 :

This is a decision in response to the petition under 37 CFR 1.183 filed June 4, 2009, requesting waiver of the requirements of 37 CFR 3.81 to correct the assignee information on the above identified application. Specifically, petitioner requests that the Office reprint the corrected patent or reprint a corrected cover page of the patent. Alternatively, petitioner requests that a Certificate of Correction be issued.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an applicant in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which states:

> "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 Commissioner 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 correct form."

In view of the above, and since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the above identified Letters Patent.

Accordingly, the petition is being treated under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition, as construed, is granted is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-07

COPY MAILED

MAR 06 2007

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Hofman et al.	:	
Application No. 10/786,066	:	ON PETITION
Filed: 26 February, 2004	:	
Atty Docket No. 0142-0443P	:	
	:	

This is a decision on the petition under 37 CFR 1.182, filed on 21 November, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Paul M. Hofman
2. Waldo Ruiterman
3. Frederik G. Heeman

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/786,066	02/26/2004	2628	1248	0142-0443P	25	6

CONFIRMATION NO. 4002

CORRECTED FILING RECEIPT

OC000000022762181

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Date Mailed: 03/06/2007

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)

Paul M. Hofman, Nuenen, NETHERLANDS;
Waldo Ruiterman, Appingedam, NETHERLANDS;
Frederik G. Heeman, Venlo, NETHERLANDS;

Power of Attorney: The patent practitioners associated with Customer Number **02292**.

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 03075671.2 02/28/2003

If Required, Foreign Filing License Granted: 05/17/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/786,066

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Converted digital colour image with improved colour distinction for colour-blinds

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAIL

SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
ISHII et al.
Application No. 10/786,072
Filed: February 26, 2004
For: EMERGENCY ACCESS INTERCEPTION ACCORDING TO BLACK LIST

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 29, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of July 29, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

McDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON, DC 20005-3096

COPY MAILED

SEP 10 2007

OFFICE OF PETITIONS

In re Application of Yasuhisa Mashiko Application No. 10/786,080 Filed: February 26, 2004 Attorney Docket No. 60188-786	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

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 August 27, 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 2627 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\786080.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.*

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

KRAMER & AMADO, P.C.
Suite 240
1725 Duke Street
Alexandria, VA 22314

COPY MAILED
JAN 09 2008
OFFICE OF PETITIONS

In re Application of	:	
John P. Craven	:	
Application No. 10/786,087	:	ON PETITION
Filed: February 26, 2004	:	
Attorney Docket No. CHC 3003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 30, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed April 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED

MAY 3 1 2005

Technology Center 2100

In re Application of KANEDA et al	:	
Application No.: 10/786,108	:	DECISION ON PETITION
Filing Date: February 26, 2004	:	FOR ACCELERATED
For: STORAGE MANAGEMENT METHOD	:	EXAMINATION UNDER
	:	M.P.E.P. §708.02(VIII)
	:	

This is a decision on the petition filed March 7, 2005 under 37 CFR §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status. The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed. If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention. If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn. Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. >The pre-examination search must be directed to the invention as claimed in the application for which special status is requested.< A search made by a foreign patent office satisfies this requirement >if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested<;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Because the petition filed March 7, 2005 meets the criteria set forth above, the petition to make special is **GRANTED**.

Applicant should consider filing an Information Disclosure Statement (Form PTO-1449 or PTO-SB08A) to ensure that reference US 2004/0250007 cited in the petition will be considered by the assigned examiner.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH W. BERENATO, III
LINIAK BERENATO & WHITE
SUITE 240
6550 ROCK SPRING DRIVE
BETHESDA, MD 20817

COPY MAILED

MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Frank Zils	:	
Application No. 10/786,112	:	DECISION ON PETITION
Filed: February 26, 2004	:	TO WITHDRAW
Attorney Docket No. 2602.120	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The 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 P. Liniak, an attorney of record.

Thomas P. Liniak has been withdrawn as attorney or agent of record; the other attorneys remain of record.

The file is being referred to Files Repository.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,171	02/26/2004	Robert Frost	029082.53185US	9141

23911 7590 08/27/2008
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
JOYNER, KEVIN

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
08/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

dss

Mailed: 8/27/08

In re application of
Robert Frost
Serial No. 10/786,171
Filed: February 26, 2004
For: PROCESS FOR OPERATING A PACKAGING TRANSPORT SYSTEM

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181(PETITION TO RESET PERIOD FOR REPLY DUE NON-RECEIPT OF NOTICE OF NON-COMPLIANT AMENDMENT) filed July 11, 2008. The petition requests that the period to reset period of response be granted, since the applicant did not receive the Notice of Non-Compliant Amendment mailed December 05, 2007. As the period for reply has elapsed past the statutory six month period. The instant petition is being treating as a petition to withdraw abandonment under 37 C.F.R. . § 1.181.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, MPEP 711.03(c), - sufficient to establish that the applicant or any authorized representative of the applicant did not receive the Notice of Non-Compliant Amendment mailed December 05, 2007. Despite the evidence provided by applicant in the form of Declaration of Ms. Tanya Che and accompanying exhibit of the attorney's application docket records ; does not includes a statement by the petitioner that the Notice of Non-Compliant Amendment mailed December 05, 2007 was not received, a statement that a search of the file and docket records was made, and a statement that the search revealed the Notice of Non-Compliant Amendment mailed December 05, 2007 was not received as required under MPEP 711.03(c) .

Thus, the application remains in abandoned status.

The Petition is DENIED.

/JACQUELINE STONE/

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

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.
10/786,171	02/26/2004	Robert Frost	029082.53185US	9141

23911 7590 03/16/2009
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER
JOYNER, KEVIN

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
03/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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

wk

3/16/09

In re application of	:	
Frost	:	DECISION ON
Serial No. 10/786,171	:	PETITION
Filed: February 26, 2004	:	
For: Process For Operating A Packaging Transport System		

This is a decision on the request filed on September 3, 2008. The request is to have the Notice of Non-Compliant Amendment mailed December 05, 2007 be remailed and the time period for response be restarted.

In August 27, 2008, a Decision was issued in response to the Applicants' July 11, 2008 Petition to reset the period for response due to non-receipt of a Notice on Non-Compliant Amendment. The petition was dismissed because the Petition failed to state that:

(I) the Notice of Non-Compliant Amendment mailed December 7, 2007 was not received;

(ii) a search of the file and docket records was made, and

(iii) the search revealed that the Notice of Non-Compliant Amendment was not received.

In response, Applicants note that the Petitioner did state that the notice was not received. The Applicants have submitted a revised Declaration that explicitly states that a physical search of the file was made, that a search of the docket records was made and the search revealed that the December 5, 2007 Notice of Non-Compliant Amendment was not received.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114).

A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the notice mailed on December 7, 2007.

The Petition is **GRANTED**.

A new Notice of Non-Compliant Amendment will be mailed and the period for response restarted.

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Jeffrey D. Sanok
CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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

VRBIA, Inc.
Intellectual Property Dept.
Box 11795
Cleveland Park Station
Washington, DC 20008

MAILED

DEC 09 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of	:	**DECISION ON PETITION**
David Bogart Dort	:	**TO MAKE SPECIAL**
Application No. 10/786,177	:	**(ACCELERATED**
Filed: February 23, 2004	:	**EXAMINATION)**
For: TRAFFIC CONTROL SYSTEMS FOR VEHICLE SPACING TO DISSIPATE TRAFFIC GRIDLOCK		

This is in response to the petition filed on February 23, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/rwg: 12/04/04

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

VRBIA, Inc.
Intellectual Property Dept.
Box 11795
Cleveland Park Station
Washington, DC 20008

MAILED
FROM DIRECTORS OFFICE

MAR 16 2005

TECHNOLOGY CENTER 3600

In re application of
David Bogart Dort
Application No. 10/786,177
Filed: February 23, 2004
For: TRAFFIC CONTROL SYSTEMS FOR VEHICLE SPACING TO DISSIPATE TRAFFIC GRIDLOCK

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on January 22, 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(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required. While applicant does set forth that he is willing to elect a single invention in the renewed petition. The requirement set forth in condition (B) above clearly states that such election must be made without traverse.

For the above stated reason, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/jwk: 2/1/05

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

OCT 13 2005

TECHNOLOGY CENTER 3600

TIGHE PATTON ARMSTRONG TEASDALE PLLC
VRBIA, INC DEPT
Box 27519
Washington Square Station
Washington, DC 20038-7519

In re application of :
David Bogart Dort :
Application No. 10/786,177 :
Filed: February 23, 2004 :
For: TRAFFIC CONTROL SYSTEMS FOR VEHICLE SPACING TO DISSIPATE TRAFFIC GRIDLOCK

DECISION ON RENEWED PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the renewed petition filed on March 26, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The original petition filed on January 22, 2005 was dismissed on March 16, 2005 for failing to satisfy condition (B) above. The renewed petition satisfies the above deficiencies.

Since all of the requirements for special status under MPEP § 708.02 VIII have now been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/pav: 03/30/05

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

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER NY 14445-2408

COPY MAILED
MAY 04 2006
OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 10/786,198	:	TO WITHDRAW
Filed: February 25, 2004	:	FROM RECORD
Attorney Docket No. XW-666	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 30, 2005, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that Howard J. Greenwald and the attorneys associated with Customer Number 37282: (1) do not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. Howard J. Greenwald and the attorneys associated with Customer Number 37282 may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

David Bucci
Petitions Examiner
Office of Petitions

cc:

NANOSET, LLC
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/19/09

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10786209 Patent No.: 7553871

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
X Denied	State the reasons for denial below.

Comments: The proposed change alters the scope of claim 4, which was original claim 7, which recited 50%. Changing the scope of a claim is outside the purview of a Certificate of Correction. If such correction is desired the correct avenue would be a Reissue application.

Robert A. Wax, SPE

1615
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 11/20/09

Patent No. : 7553871 B2
Patent Issued : 06/30/09
Docket No. : **10004.512**

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.

Respecting the alleged errors in the documents filed on 11/10/09; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 756-1574

SMITH LAW OFFICE
8000 EXCELSIOR DRIVE, SUITE 301
MADISON WI 53717

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/19/09

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10786209 Patent No.: 7553871

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
X Denied	State the reasons for denial below.

Comments: The proposed change alters the scope of claim 4, which was original claim 7, which recited 50%. Changing the scope of a claim is outside the purview of a Certificate of Correction. If such correction is desired the correct avenue would be a Reissue application.

Robert A. Wax, SPE

1615
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/19/09

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10786209 Patent No.: 7553871

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
X Denied	State the reasons for denial below.

Comments: The proposed change alters the scope of claim 4, which was original claim 7, which recited 50%. Changing the scope of a claim is outside the purview of a Certificate of Correction. If such correction is desired the correct avenue would be a Reissue application.

Robert A. Wax, SPE — **1615 Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS, MO 63131

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

In re Application of :
Olney, et al. :
Application No. 10/786,212 :
Filed: February 26, 2004 :
Attorney Docket No. KET-NDIS-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 18, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 19, 2004. A Notice of Abandonment was mailed on February 10, 2005.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 3 1 2008

OFFICE OF PETITIONS

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

In re Application of	:	
Edmund A. FLEXMAN et al.	:	
Application No. 10/786,217	:	DECISION ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. **CL1375USCNT**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 25, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2783.

This application is being referred to Technology Center AU 1796 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.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of

STAUB, Richard K. et al.
Application No. 10/786,237
Filed: February 23, 2004
Attorney Docket No. **163.1742US01**

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 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt.

Applicant is reminded that there is no attorney of record at this time. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
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

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

COPY MAILED

MAY 1 0 2007

OFFICE OF PETITIONS

In re Application of
SCHACHT, Paul F. et al.
Application No. 10/786,238
Filed: February 23, 2004
Attorney Docket No. **163.1743US01**

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 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt. Sarah M. Monfeldt has been withdrawn, all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
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

VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: Stanley W. Olson JR.	: DECISION ON REQUEST FOR
Patent Number	: 7591822	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/786,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **678** 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
www.uspto.gov

VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 05/18/2010

Applicant : Stanley W. Olson JR.
Patent Number : 7591822
Issue Date : 09/22/2009
Application No : 10/786,251
Filed : 02/24/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **762** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 08 2004

Edward P. Dutkiewicz
640 Douglas Avenue
Dunedin FL 34698

In re Application	:	
Donald E. Hudson	:	
Serial No.: 10/786,268	:	DECISION ON PETITION
Filed: February 25, 2004	:	
For: Personal Exercise System	:	

This is in response to applicants' petition filed February 25, 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

John E. Kittle
Director
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 24 2007

OFFICE OF PETITIONS

Law Offices of Brian S. Steinberger
101 Brevard Avenue
Cocoa FL 32922

In re Application of	:	
Shin-Tson Wu et al.	:	
Application No. 10/786,282	:	DECISION ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. UCF-388	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2007, and resubmitted May 4, 2007, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely pay the entire issue fee on or before February 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 21, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 22, 2007.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay or to accept an unintentionally delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $1,500. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was <u>not</u> accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Although the petition filed May 4, 2007 was accompanied by a Credit Card Payment Form (PTO-2038) for payment of the $1,500.00 petition fee and $400.00 unpaid portion of the issue

fee, the credit card account # was illegible. Consequently, the required fees could not be charged to an account and remain unpaid.

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 Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Offices of Brian S. Steinberger
101 Brevard Avenue
Cocoa FL 32922

COPY MAILED

OCT 01 2007

OFFICE OF PETITIONS

In re Application of
Shin-Tson Wu et al.
Application No. 10/786,282
Filed: February 24, 2004
Attorney Docket No. UCF-388

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the petition and entire issue fees on or before February 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed November 21, 2006. Accordingly, the date of abandonment of this application is February 22, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an authorization for payment of the remaining issue fee of $400.00; (2) the petition fee of $1500.00; and (3) a statement of unintentional delay. The required fees were charged to Deposit Account No. 504188 pursuant to the authorization filed August 1, 2007.

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 Brian Sines at (571) 272-6051 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to the Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

Attorney Docket: UCF-388

RECEIVED
CENTRAL FAX CENTER
AUG 01 2007

In re application of:
First Named Inventor: Shin-Tson Wu
Serial No. 10/786,282
Filed: 02/24/2004
For: Flower-shaped vertical alignment liquid crystal displays with wide view angle and fast response time

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
ATTN: OFFICE OF PETITIONS
P O Box 1450
Alexandria, VA 22313-1450

Honorable Commissioner:

I enclose the following papers:

1. Renewed Petition for Acceptance of Delayed Payment of Issue fees in Expired Patent to Reinstate Patent Unintentionally Abandoned Under 37 CFR 1.37(b)
2. $400.00 for Issue Fee under 37CFR1.18(a), Applicant previously submitted $1030.00 on December 5, 2006 and is currently in a holding code as evidenced by a statement from Douglas Lindsey, Office of Finance-Receipts Accounting Division
3. $1500.00 for Petition to revive unintentionally abandoned application under 37 CFR 1.37(c)
4. $30.00 for Copies of Patent
5. Copy of July 24, 2007 Petition Decision

Totaling 12 pages including this cover sheet.

Please enter the above communication.

Respectfully submitted,

Brian S. Steinberger
Law Offices of Brian S. Steinberger, P. A.
PTO Registration No. 36,423
Customer No.: 23717

CERTIFICATE OF FACSIMILE (37 CFR 1.8a)

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile on the date shown below to the United States Patent and Trademark Office to: OFFICE OF PETITIONS 1-571-273-8300.

8/1, 2007
Date

Brian S. Steinberger
(Name of Person Transmitting Paper)

(Signature of Person Transmitting Paper)

[illegible] 00000016 504188 10786282

[illegible] 1453 1500.00 DA
[illegible] 400.00 DA

Attorney Docket: UCF-388

RECEIVED
CENTRAL FAX CENTER
AUG 01 2007

In re application of:
First Named Inventor: Shin-Tson Wu
Serial No. 10/786,282
Filed: 02/24/2004
For: Flower-shaped vertical alignment liquid crystal displays with wide view angle and fast response time

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
ATTN: Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Honorable Commissioner:

This is a request for reconsideration of the Decision on Petition mailed July 24, 2007 that was based on the PTO not being able to read a credit card authorization form. Applicant now sets forth their Deposit Account Number below so that the correct fees will clearly be applied. The above-identified patent became abandoned for failure to pay Issue fees due 02/21/2007, as an unintentional error was made when calculating the fees. Petitioner requests that the **Renewed Petition for Revival of abandoned application Under 37 CFR 1.137(b) be accepted.**

Applicant further states that his lack of reply was:

1. Unintentional;
2. Filed upon receipt of the enclosed Notice of Patent Expiration,
3. Is accompanied by the Issue and Petition fees required and the **Commissioner is hereby authorized to charge any appropriate fees under 37 CFR 1.16, 1.17 and 1.21 that may be required by this paper including any underpayments, and to credit any overpayment, to Deposit Account No. 504188** and
4. Issue Fee Transmittal Form PTOL-85.

Applicant and his Attorney further request that the Renewed Petition for Revival be accepted, and the patent be revived as an unintentional error occurred.

If there are further requirements, please contact the undersigned immediately.

Respectfully submitted,

Brian S. Steinberger
Law Offices of Brian S. Steinberger, P. A.
PTO Registration No. 36,423
Customer No.: 23717
321 633-5080
Facsimile 321 633-9322

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

LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

COPY MAILED

MAY 24 2007

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/786,302 : ON PETITION
Filed: February 26, 2004 :
Attorney Docket No. 123056-05004425 :
For: RFID TAG INSTALLATION SYSTEM USING A VEHICLE AND METHOD THEREOF

This is a decision on the petition under 37 CFR 1.137(b), filed on May 11, 2007 to revive the above-identified application.

This application became abandoned for failure to properly respond to the final Office action mailed September 14, 2006, which set an extendable three month period for reply. Applicants submitted a two month extension of time and an amendment after final on January 18, 2007. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the April 10, 2007Advisory action. Accordingly, this application became abandoned on February 15, 2007. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a RCE and required fee and a request to use the previously filed amendment as the submission in reply to the September 14, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 14, 2006 final Office action, and the petition fee.

The petition is **GRANTED**.

The Revocation of Power of Attorney and New Power of Attorney, filed on May 11, 2007, has been entered and made of record. Please find enclosed Notices regarding the requested changes.

After the mailing of this decision the application will be forwarded to Technology Center AU 3611 for consideration of the RCE filed on May 11, 2007.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosures: Notices regarding acceptance of May 11, 2007 Revocation of Power of Attorney and New Power of Attorney

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
10/786,302	02/26/2004	Seung Yong Lee	123056-05004425

CONFIRMATION NO. 3444

OC000000024023141

43569
MAYER, BROWN, ROWE & MAW LLP
1909 K STREET, N.W.
WASHINGTON, DC 20006

Date Mailed: 05/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/11/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

S Willis Brantley
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/786,302	02/26/2004	Seung Yong Lee	123056-05004425

CONFIRMATION NO. 3444

OC000000024023182

22429
LOWE HAUPTMAN BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

Date Mailed: 05/24/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/11/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

S. Willis Brantley
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FENWICK & WEST, LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

COPY MAILED

JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Costa, et. al.	:	DECISION ON REQUEST
Application No. 10/786,325	:	TO WITHDRAW FROM
Filed: February 24, 2004	:	RECORD
Attorney Docket No. 61133-08657	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on April 4, 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 CFR § 1.136(a).

The request was signed by Brian M. Hoffman, on behalf of all the attorneys/agents of record.

Brian M. Hoffman and all the attorneys/agents of record have been withdrawn. Therefore, applicant is reminded that there are no attorney/agent 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 inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Robert A. Costa
17 Tanner Lane
Fairhaven, MA 02719

Andrus, Sceales, Starke & Sawall
c/o Joseph D. Kuborn, Esq.
100 East Wisconsin Avenue, Suite 1100
Milwaukee, WI 53202

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

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

COPY MAILED

JUN 18 2007

OFFICE OF PETITIONS

In re Application of Gopinath Ganapathy et al Application No. 10/786,346 Filed: February 24, 2004 Attorney Docket No. 35417-8003.US00	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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 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 14, 2006, is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $510 extension of time submitted with the petition on February 21, 2007 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3623.

Karen Creasy

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,362	02/26/2004	Scott Powell	1875.4270001/JDE	3418

7590 09/10/2009
STERNE, KESSLER, GOLDSTEIN & FOX, PLLC
1100 NEW YORK AVENUE, NW
WASHINGTON, DC 20005-3934

EXAMINER
TRAN, KHAI

ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
09/10/2009	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090903

DATE : September 03, 2009

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,369,617

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:

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

10/786362

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090903

DATE : September 03, 2009

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,369,617

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. (571) 270-9945

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:

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611

PTOL-306 (Rev. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
APR 13 2006
OFFICE OF PETITIONS

GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN, TX 78716-0727

In re Application of	:	
Yang, et al.	:	
Application No. 10/786,376	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. BP3006	:	

This is a decision on the petition under 37 CFR 1.137(a), filed March 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before December 22, 2005. Accordingly, this application became abandoned on December 23, 2005. A Notice of Abandonment was mailed on February 2, 2006.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY 16 2006

John E. Munger
JANSSON, SHUPE, MUNGER & ANTARAMIAN, LTD
245 MAIN STREET
RACINE WI 53403

In re Application of HILL, DAVID J.
Appl. No.: 10/786,378
Filed: February 25, 2004
For: BI-LEAVED VALVE APPARATUS

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed May 9, 2005, to expunge information from the above identified application. The petition fee set forth in 37 CFR 1.17(h) or (i) has been authorized to be charged to Deposit Account Number 10-0270. This is construed as an authorization to charge the petition fee set forth in 37 CFR 1.17(g) as is currently required.

The petition is granted.

Petitioner requests that a document entitled Valve Drawings, filed May 9, 2005, and contained as an "Artifact" separate from the Image File Wrapper (IFW) system, 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 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 of any patent which issues on the above-identified application.

The expunged material has been removed from the official file. In as much as papers cannot be physically expunged from the Image File Wrapper (IFW) file or returned to petitioner, all

references to the Artifact folder have been marked as "closed pursuant to decision on petition under 37 CFR 1.59" and have been closed to the public view.

The application is being forwarded to TC 3700 Head Supervisory Applications Examiner to charge the appropriate fee to the authorized Deposit Account prior to being forwarded to the Office of Publications.

Karen M. Young

Karen M. Young, 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

Anne Collins, Esq.
Hamilton Brook Smith and Reynolds, PC
530 Virginia Road
PO Box 9133
Concord MA 01742-9133

COPY MAILED

APR 13 2005

OFFICE OF PETITIONS

In re Application of
Cardosa et al.
Application No. 10/786,380
Filed: February 24, 2004
Attorney Docket No. 2316.2009-000

DECISION ON PETITION

This is a decision on the petition filed July 15, 2004, requesting that the above-identified application be accorded a filing date of February 24, 2004. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to applicants.

On February 4, 2004, applicants deposited the above-identified application. However, on May 13, 2004, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring, *inter alia*, drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification deposited on February 24, 2004, describes drawings containing Figures 1 and 2; however, it appears the United States Patent and Trademark Office (Office) did not receive any drawings on filing.

In response, applicants submitted the present petition, a second preliminary amendment to delete any reference to the figures, and a $130.00 petition fee. Applicants assert that drawings are not necessary for the understanding of the subject matter sought to be patented in the above-identified application.

As stated in MPEP § 601.01(f), 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 <u>not</u> necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

> 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 and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing 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.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Nonprovisional Application" mailed May 13, 2004, was sent in error and is hereby withdrawn. The application will be accorded a filing date of February 24, 2004.

Accordingly, the petition is granted. The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 08-0380.

The Office of Initial Patent Examination is directed to accord the application a filing date of February 24, 2004, with "0" sheets of drawings as part of the original disclosure.

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

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

Anne Collins, Esq.
Hamilton Brook Smith and Reynolds
530 Virginia Road
P. O. Box 9133
Concord, MA 01742-9133

COPY MAILED

APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Mary Jane Cardosa, et al. :
Application No. 10/786,380 : DECISION ON PETITION
Filed: February 24, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2316.2009-000

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 15, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMSSED AS MOOT** for the reasons stated below.

In the instant case, the Office recognized the claim for benefit of prior-filed nonprovisional application, number 09/147,919, filed March 23, 1999, said claim appearing in the Utility Patent Application Transmittal, filed with the instant application on February 24, 2004. In view thereof, a petition under 37 CFR 1.78(a)(3) is unnecessary.[1]

In view of the dismissal of the instant petition as moot, the $1330 fee submitted therefor is unnecessary. Accordingly, as authorized, this fee will be refunded to Deposit Account No. 08-0380 in due course.

Any inquiries concerning this decision may be directed to Marianne Jenkins at (571) 272-3223.

This application is being returned to Technology Center Art Unit 1648 for examination in due course.

Frances Hicks

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] *Note* MPEP 201.11 (III)(D), pages 200-59 and 200-60 (Rev. 2. May 2004) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

FEB 2 2 2006

OFFICE OF PETITIONS

THORPE NORTH & WESTERN
8180 SOUTH 700 EAST, SUITE 200
SANDY UT 84070

In re Application of	:	
Alan J. Wheatley et al	:	
Application No. 10/786,385	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. 21475.NP	:	

This is a decision on the petition, filed February 13, 2006, and supplemented on February 14, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 8, 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 3752 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER & MALUR, P.C.
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Baychar :
Application No. 10/786,416 :
Filed: February 26, 2004 :
Attorney Docket No. BAY-510 :

ON PETITION

This is a decision on the petition, filed January 7, 2009, under 37 CFR 1.181, requesting that the Office withdraw the holding of abandonment of the above-identified application. In the alternative, petitioner requests revival under 37 CFR 1.137(b).

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely and proper manner to the non-final Office action, mailed April 5, 2006, which set forth an extendable three (3) month period for reply. On August 7, 2006, applicant filed a Notice of Appeal and a petition for a one month extension of time. On October 5, 2006, applicants filed a petition for a three month extension of time and an amendment. A Notice of Abandonment was mailed on November 12, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that an improper Notice of Appeal was filed on August 7, 2006 because the April 5, 2006 non-final Office action was mistakenly docketed as a final Office action.

Petitioner is informed that the application is not abandoned because a proper reply to the non-final Office action was received within the extendable period for reply. While the Notice of Appeal was an improper response to the non-final Office action, the amendment, filed October 5, 2006, was a proper response. The amendment was accompanied by a petition for a three month extension of time. The three month extension of time was charged on October 5, 2006.

Therefore, the October 5, 2006 amendment was filed within 6 months of the mailing of the April 5, 2006 non-final Office action.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the November 12, 2008 Notice of Abandonment is **vacated**. 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 forwarded to Technology Center A.U. 1794 for consideration of the amendment filed on October 5, 2006.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

COHEN, PONTANI,
LIEBERMAN & PAVANE LLP
551 FIFTH AVENUE
SUITE 1210
NEW YORK NY 10176

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of	:	DECISION ON PETITION
Werder	:	
Application No. 10/786,417	:	
Filed: February 26, 2004	:	
Atty Docket No. 2001P80126WOUS	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 30, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, January 26, 2006, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. On February 8, 2006, an issue fee transmittal was filed. However, the transmittal did not specify payment of the fees. Moreover, the record indicates that an express abandonment was entered in this application on March 29, 2006. However, by Notice mailed January 8, 2009, the Notice of Abandonment (based on express abandonment) was withdrawn. On January 14, 2009, a new Notice of Abandonment was mailed.

In response, the instant petition was filed. Petitioner does not dispute that this application is properly abandoned for failure to pay the issue fee and publication fee. The petition

includes the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.

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.

Lawrence R. Oremland, P.C.
Suite C-214
5055 East Broadway Blvd.
Tucson AZ 85711

COPY MAILED

MAR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Lundeberg et al.	:	
Application No. 10/786,459	:	DECISION ON
Filed: February 25, 2004	:	PETITION
Atty Docket No. 6079.102US	:	

This is a decision on the "Petition to withdraw holding of abandonment" filed November 13, 2007. This petition is treated pursuant to 37 CFR 1.181. This petition also responds to the reference therein to 37 CFR 1.137(a) and to the accompanying "Contingent Petition to Revive as unintentional."

The petition to withdraw holding of abandonment is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed May 16, 2007. The period for transmitting the issue fee (and publication fee) is not extendable. No reply having been received, the above-identified application became abandoned on August 17, 2007. A courtesy Notice of Abandonment was mailed on September 13, 2007.

In response, applicants timely filed the instant petition. Applicants request withdrawal of the holding of abandonment on the basis that the Notice of Allowance with a mailing date of May 16, 2007 was not received at the correspondence address of record.

A review of the application file does not reveal an irregularity in the mailing of the Notice of Allowance mailed May 16, 2007. Thus, there is a strong presumption that the correspondence was

properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. As stated in MPEP 711.03(c):

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three-month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed September 13, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Since consideration of the petition under 37 CFR 1.137(a) or (b) is unnecessary, the fees charged for such consideration are being refunded to the credit card charged and Deposit Account No. 50-1905, as appropriate.

The petition includes payment of the Issue Fee, the PTOL-85(b) and payment of the Publication Fee[1]. Accordingly, the Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publication Division's technical support staff to withdraw the holding of abandonment and for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] There was no distinct and concurrent requirement for corrected drawings.

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

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

COPY MAILED

MAY 06 2005

OFFICE OF PETITIONS

In re Application of	:
Bolduc et al.	: DECISION ON PETITION
Application No. 10/786,465	: UNDER 37 CFR 1.78(a)(3) AND
Filed: 25 February, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 9494.18514	:

This is a decision on the petition styled under 37 CFR § 1.78(a)(3) which is treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on 15 November, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

The reference to the above-noted, prior-filed applications was not included in the manner specified in 37 CFR 1.78(a)(2) and (a)(5)(*i.e.*, in an ADS or in an amendment to the first sentence following the title of the specification). Specifically, the present petition does not include an amendment to the specification contained on a separate paper (*See* 37 CFR 1.121(h), nor is the amendment in compliance with 37 CFR 1.121(b).

Accordingly, before the petitions under 37 CFR §§ 1.78(a)(3) and (a)(6) can be granted, a renewed petition under 37 CFR §§ 1.78(a)(3) and (a)(6) and an ADS or an amendment to the first sentence of the specification complying with 37 CFR 1.121 and stating the relationship of the prior-filed applications to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Charles A. Pearson
Director
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
DIW Oct-05

RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

COPY MAILED

OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Bolduc et al.	:	DECISION ON PETITIONS
Application No. 10/786,465	:	UNDER 37 CFR 1.78(a)(3)
Filed: 25 February, 2004	:	AND 37 CFR 1.78(a)(6)
Atty Docket No. 9494.18514	:	

This is a decision on the paper filed on 16 May, 2005, which is treated as renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3731 for appropriate action on the amendment submitted 16 May, 2005, including consideration by the examiner of the claim for the benefit of priority to the prior-filed applications.

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO NC 27402

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Application of
Smith
Application No. 10/786,466
Filed: February 25, 2004
Attorney Docket No. 8274-020

ON PETITION

This is a decision on the petition, filed June 5, 2006 (certificate of mailing date June 1, 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 **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. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and 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. A review of the file record shows that a Request to Rescind was filed with the petition. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO NC 27402

COPY MAILED

JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of
Smith
Application No. 10/786,466
Filed: February 25, 2004
Attorney Docket No. 8274-020

ON PETITION

This is a decision on the reconsideration petition, filed October 23, 2006 (certificate of mailing date October 17, 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 February 24, 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 April 5, 2007 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being to Technology Center Art Unit 3635 for examination in due course.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/786,466	02/25/2004	Ivan Thrall Smith	8274-020

CONFIRMATION NO. 9331

4678
MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

Date Mailed: 12/22/2006

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 04/05/2007.

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".

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL J. RAFA
EYETECH PHARMACEUTICALS, INC.
3 TIMES SQUARE, 12TH FLOOR
NEW YORK, NY 10036

COPY MAILED

JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
David R. Guyer	:	
Application No. 10/786,491	:	NOTICE
Filed: February 25, 2004	:	
Attorney Docket No. Eye-010CON		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 1632.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS F. LENIHAN
TEKTRONIX, INC.
M/S 50-LAW
P O BOX 500
BEAVERTON, OR 97077-0001

COPY MAILED

SEP 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
John F. Stoops et al	:	
Application No. 10/786,514	:	DECISION GRANTING PETITION
Filed: February 24, 2004	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 7616-US	:	

This is a decision on the petition under 37 CFR 1.313(a), filed June 20, 2005, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of a concurrently filed reference listed in an IDS; namely, a reference cited by an opponent in a lawsuit involving U.S. Patent No. 5,124,597.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good an sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been charged to petitioner's deposit account. Additionally, as authorized in the petition, the $180 fee required under 37 CFR 1.17(p) for consideration of the IDS will be charged to petitioner's deposit account.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application is necessary. The mere submission of an IDS with the petition does not make withdrawal of the application from issue necessary. There are other avenues open to applicant to have an IDS considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

The issue fee in this application was received on June 20, 2005. If the IDS is not favorably considered by the examiner, petitioner may wish to file a petition under 37 CFR 1.313(c)(2).

Any inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2816 for appropriate action on the IDS filed June 20, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS F. LENIHAN
TEKTRONIX, INC.
M/S 50-LAW
P O BOX 500
BEAVERTON, OR 97077-0001

COPY MAILED

OCT 26 2005

OFFICE OF PETITIONS

In re Application of	:
John F. Stoops et al	:
Application No. 10/786,514	: DECISION GRANTING PETITIONS
Filed: February 24, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7616-US	: AND 37 CFR 1.137(b)

This is a decision on the petitions under 37 CFR 1.137(b) and 1.313(c)(2), filed October 12, 2005, to revive the above-identified application and to withdraw this application from issue after payment of the issue fee, respectively.

The petition under 37 CFR 1.137(b) is **DISMISSED** as moot for the reasons stated below.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

DISCUSSION OF PETITION UNDER 37 CFR 1.137(b)

Petitioner states that this application became abandoned for failure to timely pay the issue fee on or before the due date of June 28, 2005.

A review of the file record discloses that the issue fee, the publication fee, and drawings as required by the Notices mailed March 28, 2005, were timely received on June 20, 2005. Therefore, this application did not become abandoned for failure to either timely pay the issue fee or to file drawings as required by the Notices mailed March 28, 2005. Accordingly, the petition under 37 CFR 1.137(b) is dismissed as involving a moot issue.

Since the petition to revive under 37 CFR 1.137(b) was unnecessary, the $1,500 petition fee received will be refunded to petitioner's deposit account in due course.

DISCUSSION OF PETITION UNDER 37 CFR 1.313(c)(2)

Petitioner requests withdrawal of this application from issue for consideration of a submission (an Information Disclosure Statement) under 37 CFR 1.114.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114. See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 20, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2816 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOGG, SLIFER & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

COPY MAILED

AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 10/786,533	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. 125.021US02	:	

This is a decision on the petition filed June 8, 2004, requesting that the above-identified application be accorded a filing date of February 25, 2004, rather than the presently accorded date of February 26, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 25, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV385201454US showing a handwritten "date-in" of "February 26, 2004" as well as a "February 25, 2004" Minneapolis, MN USPS date stamp. Additionally, the same Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated February 25, 2004 on the cover page for the application papers.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on February 25, 2004 at the Minneapolis, MN USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on February 25, 2004. Accordingly, the instant application is entitled to a filing date of February 25, 2004, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(c) does not require payment of a petition fee. Accordingly, the $130.00 submitted will be credited to the petitioner's deposit account as authorized.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 25, 2004, including mailing of a corrected filing receipt.**

Telephone inquiries concerning this matter may be directed to Paralegal Liana Chase at (703) 306-0482.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/786,557	02/24/2004	1743	1500	10031097-1	9	39	6

CONFIRMATION NO. 2543

UPDATED FILING RECEIPT

OC000000013196300

022878
AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.
P.O. BOX 7599
M/S DL429
LOVELAND, CO 80537-0599

Date Mailed: 07/09/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Arindam Bhattacharjee, Andover, MA;
John F. Corson, Mountain View, CA;
J. Robert Mitchell, San Francisco, CA;
George P. Tsai, San Jose, CA;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/632,332 07/31/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/19/2004

Projected Publication Date: 02/03/2005

Non-Publication Request: No

Early Publication Request: No

Title

Chemical arrays on a common carrier

Preliminary Class

422

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of: KANO, et al.
Application No. 10/786,566
Filed: February 24, 2004
For: METHOD AND APPARATUS OF MEDIA MANAGEMENT ON DISK-SUBSYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 27 April 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Yvonne Appoldt	: DECISION ON REQUEST FOR
Patent Number	: 7651664	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/786,580	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1342** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Shawn P. Kelly
47 Kaatskill Way
Ballston Spa NY 12020

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of :
Kelly, et al. :
Application No. 10/786,582 : ON PETITION
Filed: February 26, 2004 :
Attorney Docket No. 578918009US :
For: VIBRATING RAZOR HEAD

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2006, to revive the above-identified application.

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed August 16, 2005, which set a one month shortened statutory period for reply. No proper extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on September 17, 2005. A Notice of Abandonment was mailed on March 9, 2006.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $5100 extension of time submitted with the petition was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to practitioner's deposit account.

After the mailing of this decision, the file will be returned to Technology Center AU 3724 for consideration of the election filed on June 12, 2006.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: ROBERT G. WOOLSTON
PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

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.

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

COPY MAILED

NOV 04 2004

OFFICE OF PETITIONS

In re Application of :
Larrie A. Deardurff :
Application No. 10/786,587 : ON PETITION
Filed: February 24, 2004 :
For: INKJET DYE DESIGN :

This is a decision on the Petition to Accord the Application a Filing Date as of the Date of the Divisional Application Under 37 CFR 1.182, filed October 12, 2004, requesting the application be accorded a filing date of February 24, 2004, including the specification.

The petition is **granted**.

The application was filed on February 24, 2004. However, on September 3, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without a specification.

Applicant responds with the instant petition wherein Applicant avers that the specification in the above-identified application was incorporated by reference to prior nonprovisional application no. 10/057,692.

Applicants are advised that a petition is not necessary in this instance to add the specification. The specification may be entered by the primary examiner without a petition so long as the specification is not new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . 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 by 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).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of February 24, 2004, using the application papers filed on that date.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARK A. LITMAN & ASSOCIATES, P.A.
YORK BUSINESS CENTER, SUITE 205
3209 WEST 76TH ST.
EDINA MN 55435

COPY MAILED

OCT 0 2 2007

OFFICE OF PETITIONS

In re Application of

STRONACH, Andrew et al.
Application No. 10/786,606
Filed: February 25, 2004
Attorney Docket No. **311.006US1**

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 20, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark Litman, the sole attorney of record. Mark Litman 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 Andrew Stronach at the address indicated below. There is an outstanding Office action mailed August 08, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ANDREW STRONACH**
ASHP HOLDINGS, INC.
14875 BAYVIEW AVENUE
AURORA, ONTARIO L4G 3G8
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant	: David M. Reed	: DECISION ON REQUEST FOR
Patent Number	: 7655214	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/786,621	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATTERSON THUENTE SKAAR & CHRISTENSEN P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

COPY MAILED

OCT 05 2007

OFFICE OF PETITIONS

In re Application of :
William R. Ockert et al :
Application No. 10/786,628 : ON PETITION
Filed: February 25, 2004 :
Attorney Docket No. LOAD CONTROL RECEIVER WITH LINE UNDER VOLTAGE AND LINE UNDER FREQUENCY DETECTION AND LOAD SHEDDING

This is a decision on the petition, filed October 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 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2836 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BALLARD SPAHR ANDREWS & INGERSOLL, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

COPY MAILED

OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
Srinivas Bollepalli :
Application No. 10/786,651 :
Filed: February 25, 2004 :
Attorney Docket No. 03234.0017U3 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed, October 20, 2006 and resubmitted on July 14, 2008, to change the name and citizenship of the inventor.

The petition is **GRANTED**.

Office records show the inventor's change was previously change to Srinivas Bollepalli. The citizenship has been change to the United States of America. A corrected Filing Receipt, which reflects changes, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/786,651	02/25/2004	1796	1070	03234.0017U3	16	1

CONFIRMATION NO. 2860

CORRECTED FILING RECEIPT

23859
Ballard Spahr Andrews & Ingersoll, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

OC000000032736125

Date Mailed: 10/22/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Srinivas Bollepalli, Marietta, GA;

Power of Attorney: The patent practitioners associated with Customer Number 23859

Domestic Priority data as claimed by applicant

This application is a CIP of 10/445,090 05/23/2003 PAT 7,175,930
which claims benefit of 60/382,666 05/23/2002

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 10/786,651**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CONDUCTING POLYMER-GRAFTED CARBON MATERIAL FOR FUEL CELL APPLICATIONS

Preliminary Class

252

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

COPY MAILED

MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Srinivas Bollepalli	:	
Application No. 10/786,652	:	DECISION ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. 03234.0018U3	:	

This is a decision on the petition under 37 CFR 1.182, filed, October 20, 2006, to change the name of inventor "Bollepalli Srinivas" to – Srinivas Bollepalli – and citizenship from India to the United States of America.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's change of name and citizenship. A corrected Filing Receipt, which reflects the inventor's changes, accompanies this decision on petition.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1751 for processing.

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/786,652	02/25/2004	1751	788	03234.0018U3	21	1

CONFIRMATION NO. 2861
CORRECTED FILING RECEIPT
OC000000022876320
OC000000022876320

23859
NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

Date Mailed: 03/13/2007

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)

Srinivas Bollepalli, Marietta, GA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/445,074 05/23/2003
which claims benefit of 60/382,665 05/23/2002

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 US10/786,652

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sulfonated conducting polymer-grafted carbon material for fuel cell applications

Preliminary Class

252

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHELDON MAK ROSE & ANDERSON PC
100 CORSON STREET
THIRD FLOOR
PASADENA CA 91103-3842

COPY MAILED

JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
NILSSON, Jack	:	
Application No. 10/786,656	:	DECISION ON PETITION
Filed: February 25, 2004	:	TO WITHDRAW
Attorney Docket No. **17128-4**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 06, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request to withdraw less than all attorneys appointed by customer number 23676 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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
10/786,663	02/24/2004	1614	477	57070-8018.US00	3	23	3

CONFIRMATION NO. 2986

CORRECTED FILING RECEIPT

OC000000013574526

22918
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

Date Mailed: 08/18/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Dongcheng Dai, Mountain View, CA;
John H. Musser, San Carlos, CA;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/449,976 02/25/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/15/2004

Projected Publication Date: 10/07/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Halogenated triptolide derivatives as immunomodulators and anticancer agents

Preliminary Class

424

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

COPY MAILED

AUG 14 2007

OFFICE OF PETITIONS

In re Application of Dean :
Application No. 10/786,709 :
Filing Date: February 24, 2004 :
Attorney Docket No. 020505 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed March 21, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed April 7, 2006. The Office action set a three (3) month shortened statutory period for reply.

A Notice of Abandonment was mailed on December 1, 2006. The Notice of Abandonment stated the application was abandoned because a reply had never been received in response to the April 7, 2006 Office action.

Petitioner contends a reply and request for a three-month extension of time were timely filed October 5, 2006.

The Office has been able to locate the papers filed October 5, 2006. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The three-month extension of time fee of $1,020 has been charged to petitioner's deposit account per the fee authorization filed October 5, 2006.

Technology Center Art Unit 2618 will be informed of the instant decision and the papers filed October 5, 2006, will be entered by the Technology Center's technical support staff. Thereafter, the examiner will consider the amendment 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/12/06

Paper No.: ——

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/786713 Patent No.: 7035387 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: _____

SPE

2643
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Robert O. Blinn
P.O. Box 75144
Wichita KS 67275-0144

COPY MAILED

JUL 3 1 2008

In re Application of	:
Sigel	:
Application No. 10/786,715	: DECISION ON PETITION
Filed: February 24, 2004	: UNDER 37 CFR 1.181
Attorney Docket No. 3146W	:
For: APPARATUS AND METHOD FOR SCRUBBING NATURAL GAS	

This is a decision on the petition under 37 CFR 1.181, filed May 1, 2008 (certificate of mailing date April 29, 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 the Restriction Requirement, mailed October 9, 2007, which set forth an extendable one (1) month period for reply. The Office contended that this application became abandoned on November 10, 2007 for failure to reply. A Notice of Abandonment was mailed on April 18, 2008.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that an election was timely mailed on certificate of mailing date November 8, 2007 and received in the Office on November 13, 2007.

In support of this assertion, petitioner has provided a copy of applicant's response that contains a proper certificate of mailing bearing a November 8, 2007 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 "RESPONSE TO RESTRICTION REQUIREMENT" bears a proper certificate of mailing, dated November 8, 2007, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the attorney signing the certificate, Robert O. Blinn, had reasonable basis to expect that the correspondence would be mailed on November 8, 2007.

In addition, petitioner has submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing November 13, 2007 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a Response to Restriction Requirement. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on November 13, 2007. MPEP 503.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the April 18, 2008 Notice of Abandonment is vacated.No petition fee has been or will be charged in connection with this matter.

The application file will be returned to Technology Center A.U. 1793 for consideration of the election filed on certificate of mailing date November 8, 2007 and re-submitted with the present petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEONARD TACHNER
A PROFESSIONAL LAW CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

COPY MAILED

FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
GARRAFFA, Dean R.	:	
Application No. 10/786,717	:	DECISION ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. ATOMIC-15	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 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 December 7, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 7, 2006 . Accordingly, the date of abandonment of this application is December 8, 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 $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

This application is being referred to Publishing Division for processing into a patent.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/786,724	02/25/2004	3636	394	17721-00068	3	21	2

CONFIRMATION NO. 2747

CORRECTED FILING RECEIPT

OC000000013599166

Patrick W. Rasche
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

Date Mailed: 08/20/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Sandra Anne Ryan, Leichhardt, AUSTRALIA;

Domestic Priority data as claimed by applicant

Foreign Applications

AUSTRALIA 2003100523 06/30/2003

If Required, Foreign Filing License Granted: 05/15/2004

Projected Publication Date: 12/30/2004

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Disposable chair cover

Preliminary Class

297

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

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

Squire, Sanders & Dempsey L.L.P.
Oracle International Corporation
8000 Towers Crescent Drive
14th Floor
Vienna, VA 22182

Mail Date: 04/20/2010

Applicant	: Ross Bunker	: DECISION ON REQUEST FOR
Patent Number	: 7636722	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/786,772	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **496** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT - 7 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Patent Administrator
Suite 1600
525 West Monroe Street
Chicago IL 60661-3693

In re Application of
Daniel Lous Bates, et al.
Application No. 10/786,777
Filed: February 25, 2004
For: **SYSTEM AND METHOD FOR TRACKING AN OBJECT IN A VIDEO AND LINKING INFORMATION THERETO**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed September 26, 2005 under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

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
www.uspto.gov
DIW 03-05

FISH & RICHARDSON P.C.
3300 DAIN RAUSCHER PLAZA
60 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

COPY MAILED

MAR 2 1 2005

OFFICE OF PETITIONS

In re Application of	:
Zhang et al.	: DECISION GRANTING
Application No. 10/786,791	: PETITION
Filed: 25 February, 2004	:
Atty Dkt No. 13498-010003	:

This is a decision on the petition, filed on 28 February, 2005, which is treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 25 February, 2004, rather than the presently accorded filing date of 24 February, 2004.

Petitioners allege that the application was deposited in Express Mail service on 25 February, 2004. In support, petitioners have provided a copy of Express Mail Label No. EV321180589US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "2-24-04" the label also contains an Official USPS postmark dated 25 February, 2004.

In view of the above, the correct date of deposit in Express Mail is 25 February, 2004.

In view of the above, the petition is granted. The petition fee of $130.00 is unnecessary and will be credited to counsel's account No. 06-1050, as authorized in the present petition. The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to **25 February, 2004.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IVAX CORPORATION
4400 BISCAYNE BOULEVARD
MIAMI, FL 33137

COPY MAILED

MAY 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Barney et al.	:	
Application No. 10/786,796	:	ON PETITION
Filed: February 20, 2004	:	
Attorney Docket No. NHC0071-USA	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 20, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 20, 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 timely obtained. Accordingly, the above-identified application became abandoned on July 21, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

AT & T LEGAL DEPARTMENT - Slusky
ATTN: PATENT DOCKETING
ONE AT & T WAY - ROOM 2A-207
BEDMINSTER, NJ 07921

COPY MAILED

MAR 2 6 2009

OFFICE OF PETITIONS

In re Application of Cortez et al. :
Application No. 10/786,802 : Decision on Petition
Filing Date: February 25, 2004 :
Attorney Docket No. 2002-0319 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 16, 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 final Office action mailed June 12, 2008, 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 September 13, 2008.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination filed December 15, 2008. Petitioner has submitted the required petition fee of $1,620. 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.

Technology Center Art Unit 2416 will be informed the petition to revive has been granted 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

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

GEORGE O. SAILE
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

COPY MAILED

JUN 1 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 10/786,807	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. MEG02-005	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 5, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 6, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2822 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the previously amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROSS J. OEHLER
AVENTIS PHARMACEUTICALS INC.
ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

COPY MAILED

APR 14 2005

OFFICE OF PETITIONS

In re Application of :
Benavides et al. :
Application No. 10/786,810 :
Filed: February 25, 2004 :
Attorney Docket No. ST01023 US CNT :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181(a)(3), filed February 25, 2005, invoking the supervisory authority of the Commissioner to review the refusal of the Office of Initial Examination to correct the inventorship in the instant application. This decision will also address petitioner's request to correct the title of the invention and to correct the address listed for the assignee.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The Office of Initial Patent Examination acted correctly in denying petitioner's request to correct the inventorship via a request for corrected filing receipt and acted correctly when it informed petitioner that a petition under 37 CFR 1.48 must be filed.

An executed declaration was filed on June 22, 2004. The declaration as filed lists names for five inventors.

The declaration as filed does not clearly indicate that inventor three was listed twice on the declaration. The declaration as filed does not clearly indicate that only four inventors exist. The name listed for the fifth inventor is the last name of the third inventor. However, family members can, and have, filed patent applications where more than one family member is an inventor. The address for the fifth inventor is the same address listed for the third inventor. However, family members residing at the same address may file patent applications listing more than one family member as an inventor. For the above reasons, the Office acted correctly in entering five inventors into Office records.

Once an executed oath or declaration has been filed, one must file a petition under 37 CFR 1.48 in order to make changes to the inventorship. Therefore, the Office of Initial Patent Examination acted correctly when it informed petitioner that a petition under 37 CFR 1.48 would need to be filed in order to make the requested change to inventorship.

The requested change to the title for the invention has been made.

The transmittal letter filed by petitioner included the word "activatives" as part of the title of the invention. The title listed at the beginning of the specification includes the word "activates" rather than "activatives." The filing receipt listed the title with the word "activatives." Petitioner

requests the title be corrected to replace "activatives" with "activates." The title has been corrected in Office records.

The requested change to the assignee's city of residence has not been made. However, the city of residence for the assignee has been changed to Antony, France.

Petitioner requests the address of the assignee be changed from "Cedex, France" to "Antony, Cedex, France." The Application Data Sheet lists the city for the assignee as "Antony, Cedex." The city of Antony is located near Paris. A city called "Antony, Cedex" does not exist. The word Cedex derives from a mailing system known as **C**ourrier d'**E**ntreprise à **D**istribution **E**xceptionnelle. It is a postal term designed for those who receive a very large amount of mail. The word Cedex, along with a three digit code, can be used in conjunction with a "zip code" to improve the routing of mail. Just as the zip code for an assignee does not appear on a patent, neither should the word Cedex. The city name for the assignee will be changed in Office records from Cedex to Antony.

Any request for reconsideration of this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ross J. Oehler
Aventis Pharmaceuticals Inc.
Route 202-206
Mail Code: D303A
Bridgewater, NJ 08807

COPY MAILED
MAR 27 2006
OFFICE OF PETITIONS

In re Application of Benavides et al. :
Application No. 10/786,810 : Decision on Petition
Filing Date: February 25, 2004 :
Attorney Docket No. ST01023 US CNT :

This is a decision in response to the petition under 37 CFR 1.48(a) filed on August 16, 2005.

The petition is **granted**.

The declaration filed on June 22, 2004, listed Yvette Henin as the third inventor.

When Yvette Henin received the declaration, Henin signed the portion of the declaration under her name. Henin also added the name "Henin" as a fifth inventor.

The petition seeks to have Henin's name only appear once as an inventor for the application.

A Rule 48(a) petition requires:
(1) request along with fee under Rule 17(i) ($130),
(2) a statement from each person being added and from each person being deleted that the error in inventorship occurred without deceptive intention on his or her part,
(3) correct executed oath/dec (or oath/dec as permitted by 37 CFR 1.42, 1.43 or 1.47) and
(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

As for item (4) above, the assignee has not explicitly consented to the change of inventorship. However, considering all the facts and circumstances, the assignee's submission of a statement under Rule 3.73(b) with the petition will be construed as consent.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

MAR 14 2007

OFFICE OF PETITIONS

WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

In re Application of	:	
Daniel E. Tedesco, et al.	:	
Application No. 10/786,831	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. 02-100A	:	

This is a decision on the petition, filed January 24, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b). This is also a decision on the petition, filed March 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue.

It does not appear that the petitions are signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Carson C.K. Fincham appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petitions are **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before January 16, 2007. This decision precedes the mailing of a Notice of Abandonment. However, on January 24, 2007, the petition under 37 CFR 1.137(b) was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

Since petitioner has complied with 37 CFR 1.137(b), the application may be returned to a pending status. However, in view of petitioner's request to withdraw the application from issue,

[1] *37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is* ***not*** *a correct interpretation of the statement contained in the instant petition.*

the application is hereby withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 24, 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. [2]

Receipt is acknowledged of the notification of loss of entitlement to small entity status pursuant to 37 CFR 1.27(g)(2). Accordingly, status as a Small Entity has been removed.

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being forwarded to Technology Center AU 2624 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] *The request to apply the issue fee to the new Notice 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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Parviz Tayebati	: DECISION ON REQUEST FOR
Patent Number	: 7630425	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/786,839	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE ESTEE LAUDER COS, INC
155 PINELAWN ROAD
STE 345 S
MELVILLE NY 11747

COPY MAILED
FEB 05 2010

In re Application of	:	
David C. Gan, et al.	:	
Application No. 10/786,847	:	DECISION GRANTING PETITION
Filed: February 25, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03.47	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, February 4, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 2, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1619 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Fuyun Ling	: DECISION ON REQUEST FOR
Patent Number	: 7590182	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/786,856	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **788** 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.

Whisenant, Ethan

From: Tolbert, Virginia
Sent: Wednesday, April 09, 2008 12:36 PM
To: Whisenant, Ethan
Cc: Shukla, Ram
Subject: 10/786875---7264932

Please respond to the PTOL-306 (IMIS) document, in the application images for the above-identified application in eDan/MADRAS dated 03/19/08.

Your response is needed, as to whether the changes requested in the Request for Certificate of Correction and on the SB/44 or PTOL-1050 forms (COCIN) document, should be made.

After you have printed the IMIS document and noted your response on the IMIS document, please forward your response for scanning into the application images, as a COCX document.

Your assistance is very much appreciated.

Thank you for your attention directed to this matter.

Virginia Tolbert
Certificate Of Correction
703-308-9390 Ext 113

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/19/08

TO SPE OF : ART UNIT 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/786875 Patent No: 7264932 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:

ETHAN WHISENANT
PRIMARY EXAMINER
4/14/08

Ram Shukla — SPE

1634 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DICKE, BILLIG & CZAJA
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS MN 55402

COPY MAILED

OCT 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,480,358	:	
Issue Date: January 20, 2009	:	
Application No. 10/786,879	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. I435.124.101 / 03P51159US	:	

This is a decision on the petition filed September 3, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the names of the assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

It appears that the Certificates of Correction Branch issued a Certificate of Correction showing Infineon Technologies AG and Rambus Inc. as the assignees on October 6, 2009. Therefore, it is unnecessary to refer this patent to the Certificates of Correction Branch for further action.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 07 2009

OFFICE OF PETITIONS

MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston MA 02110

In re Patent No. 7,553,828	:
Nelson et al.	:
Issue Date: June 30, 2009	:
Application No. 10/786,881	: DECISION ON REQUEST FOR
Filed: February 24, 2004	: RECONSIDERATION OF
Attorney Dkt. No. 117728-22201	: PATENT TERM ADJUSTMENT
Title: 9-AMINOMETHYL	:
SUBSTITUTED MINOCYCLINE	:
COMPOUNDS	:

This is a decision on the "APLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(d)," filed August 27, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred fifty-eight (358) days to seven hundred three (703) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On June 30, 2009, the above-identified application matured into US Patent No. 7,553,828 with a patent term adjustment of 358 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Patentees assert entitlement to a patent term adjustment of 703 days. Patentees maintain the 345 of 856 days delay under § 154(b)(1)(B) do not overlap with the delay under § 154(b)(1)(A). Thus, patentees request that the determination of patent term adjustment be increased to a total of seven hundred three (703) days (the sum of the period of three-year delay (856 days) and

the period of examination delay (570 days) minus applicants' delay (212 days) minus time consumed by the request for continued examination (RCE) pursuant to 37 CFR 1.703(b)(1) (491 days) minus time consumed by filing of the Notice of Appeal pursuant to 37 CFR 1.703(b)(4) (20 days))[1]. Patentees do not dispute the 212-day reduction for applicants' delay.

The Office finds that as of the day before the filing of the request for continued examination (RCE) on February 25, 2008, the application was pending three years and 366 days after its filing date (February 25, 2007 to February 25, 2008). At the time of filing of the RCE on February 26, 2008, a period of adjustment of 535 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1). At issue is whether patentee should accrue an additional 366 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 535 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 366-day period of delay in issuance of the patent overlaps with the period of 535 days of examination delay. 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.*

---

[1] As 37 CFR 1.702(b)(4) is not applicable to the instant prosecution history, consideration of a 20 day overlap under 37 CFR 1.703(b)(4) as discussed by patentees is not warranted.

154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 24, 2004 until the day before the filing of the RCE on February 25, 2008. 535 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within

specified time frames during the pendency of the application. All of the 366 days for Office delay in issuing the patent overlap with the 535 days of Office delay accrued prior to submission of the RCE. Entry of both 366 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 535 days pursuant to 37 CFR §1.702(a)(1) for Office examination delay is neither permitted nor warranted. The Office did not delay 535 days and then another 366 days. As of the filing of the RCE on February 26, 2008, the greater period, 535 days, is the actual number of days issuance of the patent was delayed by the Office. An additional 35-day patent term adjustment was accorded subsequent to the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent, having considered the 535 days of examination delay under 37 CFR 1.702(a)(1) that occurred prior to the filing of the RCE as well as the 35 days of examination delay under 37 CFR 1.702(a)(2) that occurred subsequent to the filing of the RCE, as well as the applicant delays of 212 days under 37 CFR 1.704.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petition 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

MCCARTER & ENGLISH, LLP BOSTON
265 Franklin Street
Boston, MA 02110

Mail Date: 04/30/2010

Applicant	: Mark L. Nelson	: DECISION ON REQUEST FOR
Patent Number	: 7553828	: RECALCULATION of PATENT
Issue Date	: 06/30/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/786,881	: OF WYETH
Filed	: 02/24/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEPHEN B. DAVIS
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED

JUL 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Robichaud et al.	:	
Application No. 10/786,935	:	ON PETITION
Filed: February 25, 2004	:	
Attorney Docket No. PH 7218A CIP	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed June 23, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed August 18, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on November 19, 2004. A Notice of Abandonment was mailed March 14, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1089

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Application of
DANIEL MANHUNG WONG
Application No. 10/786,941
Filed: 02/24/2004
Attorney Docket No. 50277-2406

DECISION ON PETITION

This is decision on the petition under 37 CFR 1:181, filed September 24, 2007, to withdraw the holding of abandonment.

On January 24, 2007, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. In the apparent absence of a timely filed response, the application became abandoned on April 25, 2007. On August 23, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioners asserted that they filed a timely response to the nonfinal Office action. In support of the assertion, petitioners submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of "1) Transmittal (1 page), 2) Amendment and Response (5 pages), and 3) Return receipt postcard" in the USPTO on April 26, 2007.

Upon reviewing the record, the reply was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the reply on April 26, 2007. See MPEP 503. The copy of the response contained a certificate of mailing dated April 24, 2007. Therefore, petitioners are relying of the certificate of mailing as evidence of the timely filing of the response on April 24, 2007.

"Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512." MPEP 711.03(c)(I)(B). Pursuant to MPEP 512(IV), applicants may notify the USPTO of the previous mailing and supply a duplicate copy of the correspondence, accompanied by a statement attesting on a personal knowledge basis, or to the satisfaction of the Director, to the previous timely mailing. If the person signing the statement did not sign the certificate of

mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission. Such a statement should be filed promptly after the person becomes aware that the Office has not received the correspondence.

Petitioners did not provide a statement attesting to a personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing (i.e., a statement by Martina Placid, the person who signed the certificate). Accordingly, the petition to withdraw the holding of abandonment is **dismissed**.

Before the Office can withdraw the holding of abandonment, petitioners must submit a request for reconsideration and a response in compliance with 37 CFR 1.8(b)(3). A request for reconsideration of this decision must be submitted with TWO (2) MONTHS of the mailing date of this decision. Extensions of this time period may be granted under 37 CFR 1.136. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1089

COPY MAILED

JAN 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
DANIEL MANHUNG WONG	:	
Application No. 10/786,941	:	DECISION ON PETITION
Filed: 02/24/2004	:	
Attorney Docket No. 50277-2406	:	

This is decision on the renewed petition under 37 CFR 1.181, filed December 11, 2007, to withdraw the holding of abandonment.

On January 24, 2007, the Office mailed a nonfinal Office action, which set a three month shortened statutory period to reply. In the apparent absence of a timely filed response, the application became abandoned on April 25, 2007. On August 23, 2007, the Office mailed a Notice of Abandonment.

Petitioners asserted that they filed a timely response to the nonfinal Office action. In support of the assertion, petitioners submitted a copy of the response and a date-stamped postcard receipt, acknowledging receipt of "1) Transmittal (1 page), 2) Amendment and Response (5 pages), and 3) Return receipt postcard" in the USPTO on April 26, 2007.

Upon reviewing the record, the reply was not located among the papers in the Image File Wrapper. The date-stamped postcard receipt serves as prima facie evidence of receipt of the reply on April 26, 2007. See MPEP 503. The copy of the response contained a certificate of mailing dated April 24, 2007. Therefore, petitioners are relying of the certificate of mailing as evidence of the timely filing of the response on April 24, 2007.

"Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512." MPEP 711.03(c)(I)(B). Pursuant to MPEP 512(IV), applicants may notify the USPTO of the previous mailing and supply a duplicate copy of the correspondence, accompanied by a statement attesting on a personal knowledge basis, or to the satisfaction of the Director, to the previous timely mailing. If the person signing the statement did not sign the certificate of

mailing, then the person signing the statement should explain how they have firsthand knowledge of the previous timely mailing or transmission. Such a statement should be filed promptly after the person becomes aware that the Office has not received the correspondence.

On renewed petition, petitioners submitted statements attesting to personal knowledge of the mailing of the original response on the date indicated on the certificate of mailing in compliance with 37 CFR 1.8(b)(3). Accordingly, the petition to withdraw the holding of abandonment is **GRANTED**.

This matter is being referred to Technology Center AU 2167 for review of the amendment filed September 24, 2007.

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gurin et al.

Application No.: 10/786943

Examiner:

Date Filed:

Group:

For: ALKALINE ELECTROLYTE FUEL CELLS WITH IMPROVED HYDROGEN-OXYGEN SUPPLY SYSTEM

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700

FEB 18 2005

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 the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 2/24/04.

Neil R. Jetter, Reg. No. 46,803

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §1.102 and MPEP 708.02, Applicants hereby Petition to Make Special for an advancement of examination the above-described United States Patent Application. Since the above-referenced Application is believed to qualify under 37 C.F.R. § 1.102(c), this petition is filed without fee. However, should a fee be determined to be required, the Commissioner is hereby authorized to charge any deficiency in any fees due with the filing of this paper, or during prosecution of this application to Deposit Account No. 50-0951.

Applicants request special status for the referenced application on the basis that the claimed invention will "materially contribute to the development or conservation of energy

{WP165647;1}

Express Mail No.
EV 346756369 US

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

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

COPY MAILED

JAN 19 2007

OFFICE OF PETITIONS

In re Application of :
Kevin C. South :
Application No. 10/786,957 : DECISION ON PETITION
Filed: February 25, 2004 :
Attorney Docket No. FLTW-335 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 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 July 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 3, 2006. Accordingly, the date of abandonment of this application is July 4,2006. A Notice of Abandonment was mailed on July 14, 2006, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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 Application of
William Toreki

Application No. 10786959

Filed: February 25,2004

Attorney Docket No. QMT1.1-CIP2-US

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 06-AUG-2009 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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

ERICKSON & KLEYPAS, L.L.C.
800 W. 47TH STREET, SUITE 401
KANSAS CITY MO 64112

COPY MAILED

JUL 1 0 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Joan H. M. Knoll et al. :
Application No. 10/786,970 :
Filed: February 24, 2004 :
Attorney Docket No. **30307-CNT1** :

This is a decision on the petition filed February 26, 2007, to revive the above identified application under 37 CFR 1.137(b)[1].

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned on July 11, 2006, for failure to file a timely response to a Restriction Requirement mailed June 9, 2006, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed February 20, 2007.

The petition fee in the amount of $1500.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed February 26, 2007 will be referred to Technology Center 1634 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF ADRIENNE B. NAUMANN
8210 NORTH TRIPP
SKOKIE, IL 60076

COPY MAILED

SEP 0 1 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
James G. Sullivan :
Application No. 10/786,981 :
Filed: February 25, 2004 :
Attorney Docket No. N/A :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF ADRIENNE B. NAUMANN
8210 NORTH TRIPP
SKOKIE IL 60076

COPY MAILED

AUG 2 2 2007

OFFICE OF PETITIONS

In re Patent No. 7,240,885	:	
Issue Date: July 10, 2007	:	
Application No. 10/786,981	:	NOTICE
Filed: February 25, 2004	:	
Title: EMERGENCY VEHICLE SUPPORT KIT	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/06/2010

Applicant	: Johan van de Groenendaal	: DECISION ON REQUEST FOR
Patent Number	: 7634252	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/786,982	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **208** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED
OCT 17 2006
OFFICE OF PETITIONS

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NY 10020-1105

In re Application of	:
Tung, et al.	: DECISION ON PETITION
Application No. 10/786,997	:
Filed: February 24, 2004	:
Docket No.: VPI9207C2AD3	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 10, 2006.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed December 20, 2005. Notice of Abandonment was mailed June 26, 2006.

Petitioners assert that a response to the non-final Office action and a petition for extension of time were timely submitted on June 20, 2006.

The original amendment submitted June 20, 2006 is contained in the application file.

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**.

The application file is being forwarded to Technology Center 1600 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

MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Paul D. Sandoz	: DECISION ON REQUEST FOR
Patent Number	: 7647415	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/787,007	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2004	: 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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 09 2005

OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING
Gosling, et al.	: PETITION UNDER 37 CFR
Application No. 10/787,018	: 1.183 and GRANTING
Filed: February 24, 2004	: PETITION UNDER 37 CFR
Atty. Dkt. 019934-000723US	: 1.48

This decision is in response to the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3), the petition under 37 CFR 1.48, and the petition under 37 CFR 1.47, filed December 10, 2004.

The above-identified application was filed February 24, 2004 and named J. Gosling, D.J. Dairaghi, M. Hanley, Z. Miao, D. Talbot, and T.J. Schall as joint inventors. Petitioners herein seek to correct the inventive entity of this application by deleting DALE TALBOT as a joint inventor.

DECISION UNDER 37 CFR 1.183

The provisions of 37 CFR 1.183 provide that "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed."

Petitioners seek to correct the inventive entity in the instant application by submitting a petition under 37 CFR 1.48. Petitioner is required under 37 CFR 1.48(a)(3) to submit an oath or declaration by the actual inventor or inventors as required by §1.63 or as permitted by §§ 1.42, 1.43 or § 1.47. Petitioners are unable to comply with this requirement because one of the inventors has either refused to sign the supplemental declaration or cannot be reach or located to sign the supplemental declaration.

Petitioners have established that inventor Michael Hanley has refused to execute the supplemental declaration for the above-

identified application or cannot be reached or locate to execute the same.

Accordingly, the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.48(a)(3) is hereby **GRANTED**.

DECISION UNDER 37 CFR 1.48

A grantable petition under 37 CFR 1.48(a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47; (4) the processing fee set forth in § 1.17(i); and (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The instant petition has been reviewed and found in compliance with the provisions of 37 CFR 1.48(a). Accordingly, 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. The inventorship of this application has been changed by deleting DALE TALBOT as a joint inventor.

Accordingly, the petition under 37 CFR 1.48 is hereby **GRANTED**.

Enclosed please find a corrected filing receipt whereupon the requested deletion of inventor can be noted.

DECISION UNDER 37 CFR 1.47

The first executed oath or declaration filed establishes the inventive entity of an application. Moreover, the provisions of 37 CFR 1.47 are only applicable to original oaths or declarations. Further, the provisions of 37 CFR 1.47 may not be utilized for the purposes of correcting an error in inventorship made without deceptive intent. *See*, 37 CFR 1.41(a)(1), 37 CFR 48(f)(1), and MPEP 201.03.

Wherein an original executed oath or declaration has been submitted and it is later determined that the original executed

oath or declaration failed to set forth the correct inventive entity and this error in inventorship was made without deceptive intent, a petition under 37 CFR 1.48 may be filed. A petition under 37 CFR 1.47 filed in conjunction with a petition under 37 CFR 1.48 would be appropriate wherein an inventor that was not named in the original executed oath or declaration refuses to execute the amended oath or declaration in accordance with 37 CFR 1.63.

The provisions of 37 CFR 1.47 cannot be utilized for the purposes of correcting an error in inventorship in an original executed oath or declaration wherein an inventor that executed the original oath or declaration thereafter refuses to sign or cannot be located to sign the amended oath or declaration. *See*, MPEP 201.03(B) for further guidance.

The instant application was filed February 24, 2004 at which time a fully executed declaration was submitted. Accordingly, the petition under 37 CFR 1.47 is inappropriate and hereby **DISMISSED**.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

DEC 30 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

PAUL E. FRANZ, ESQ.
JONES DAY
901 LAKESIDE AVENUE/NORTH POINT
CLEVELAND, OH 44114

In re Application of
George B. Bumiller.
Application No. 10/787,024
Filed: February 25, 2004
For: PHONE NUMBER REPLACE CODE SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed November 22, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement by George B. Bumiller that he over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

SPE Feild

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/787,024

Paper No.: _____

DATE : 2/6/06

TO SPE OF : ART UNIT 2681

SUBJECT : Request for Certificate of Correction on Patent No.: 6968214

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

Lamonte M. Newsome
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:

JOSEPH FEILD
SUPERVISORY PATENT EXAMINER

SPE

2617
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,968,214 B2

APPLICATION NO.: 10/787,024

ISSUE DATE : Nov. 22, 2005

INVENTOR(S) : Bumiller

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 14, Line 34 (Claim 11)
Please delete "wherein the mobile telephone communication device is a mobile device, and"

Column 15, Line 23 (Claim 15)
Please insert - - of if the phone call initiated to the phone number connected - - between "determination" and "is made based on a user input."

Column 15, Line 37 (Claim 16)
Please replace "," with - - ; - - after toll-free number

Column 15, Line 43 (Claim 16)
Please replace "intra-numberina elan" with - - intra-numbering plan - -

Column 15, Line 47 (Claim 16)
Please replace "Phone call" with - - phone call - -

Column 16, Line 34 (Claim 19)
Please insert - - the - - between "wherein" and "determining"

Column 16, Line 35 (Claim 19)
Please insert - - further - - between "code" and "comprises"

Column 16, Line 38 (Claim 19)
Please replace "shone" with - - phone - -

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Paul E. Franz, Esq., Jones Day, North Point, 901 Lakeside Avenue, Cleveland, OH 44114

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.

JAN 25 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

MAILED

MAR 23 2009

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of :
Pallikaris, et al. : DECISION ON PETITION
Application No. 10/787,026 :
Filed: February 25, 2004 :
Atty. Dkt. No: 10781/26 :

This decision is in response to the petition to revive under 37 CFR 1.137(a), and the alternative petition under 37 CFR 1.137(b), filed March 12, 2009.

The petition to revive under 37 CFR 1.137(a) is hereby DISMISSED.

The petition under 37 CFR 1.137(b) is hereby HELD IN ABEYANCE.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is not a final agency decision.

The application became abandoned June 18, 2008 for failure to timely submit a proper reply to the non-final Office action mailed March 17, 2008. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed January 21, 2009.

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(c).

The instant petition fails to satisfy requirement (3).

Petitioners have failed to present 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.

The Office 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 have been "unavoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

Petitioners assert non-receipt of the non-final Office action. Petitioners have provided information concerning the docketing procedures in place at correspondence address of record. Petitioners indicate that a search of the file jacket and the docket records indicate that the non-final Office action was not received. Petitioners have included a copy of the file jacket for the instant application. Petitioners have also included a copy of relevant portions of docket records for the instant application. Petitioners have also provided a copy of manual docket records for the instant application. Petitioners contend the supporting documentation establish non-receipt of the non-final Office action.

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 instant petition does not establish non-receipt of the non-final Office action in compliance with the procedures set forth at MPEP 711.03(c). Specifically, petitioners have not provided a "master docket" or alleged that a "master docket" does not exist. Thus, the showing provided is insufficient to establish non-receipt of the non-final Office action.

Petitioners have alternatively requested consideration of the instant petition under 37 CFR 1.137(b). If petitioners elect to forgo further consideration of the instant petition under 37 CFR 1.137(a), any future request for reconsideration should be directed to reconsideration under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

MAR 10 2010

OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Application of	:
Pallikaris, et al.	: DECISION ON PETITION
Application No. 10/787,026	:
Filed: February 25, 2004	:
Atty. Dkt. No: 10781/26	:

This decision is in response to the renewed petition to revive under 37 CFR 1.137(a), filed April 8, 2009.

The petition to revive under 37 CFR 1.137(a) is hereby **GRANTED**.

The application became abandoned June 18, 2008 for failure to timely submit a proper reply to the non-final Office action mailed March 17, 2008. The non-final Office action set a three month shortened statutory period of time for reply. No petition for extension of time was submitted. Notice of Abandonment was mailed January 21, 2009. A petition under 37 CFR 1.137(a) was filed March 12, 2009 and dismissed March 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of a reply to the non-final Office action; (2) the required petition fee; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Group Art Unit 3734 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

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

HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON, OH 44311-1076

COPY MAILED
DEC 29 2006
OFFICE OF PETITIONS

In re Application of	:	
Jack Nilsson	:	
Application No. 10/787,031	:	DECISION ON PETITION
Filed: February 25, 2004	:	TO WITHDRAW
Attorney Docket No. 200106.00003	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 27, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Hahn Loeser & Parks, LLP has been revoked by the assignee of the patent application on December 22, 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SHELDON MAK ROSE & ANDERSON PC
225 SOUTH LAKE AVENUE
9TH FLOOR
PASADENA, CA 91101

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

TETRA PAK US INTELLECTUAL PROPERTY DEPARTMENT
TETRA PAK INC.
101 CORPORATE WOODS PARKWAY
VERNON HILLS, IL 60061

COPY MAILED

FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Lees et al.	:	
Application No. 10/787,032	:	ON PETITION
Filed: February 24, 2004	:	
Attorney Docket No. TRX-0628 CON01	:	

This is a decision on the petition filed October 12, 2004, requesting that the above-identified application be accorded a filing date of February 24, 2004, rather than the presently accorded date of February 25, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

37 CFR 1.10(d) states,

> 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 that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

As to (3), petitioner has failed to include any evidence from the USPS that the correspondence was deposited in the "Express Mail Post Office to Addressee" service on February 25, 2004. Evidence may wish include a true copy of the "Express Mail" mailing label and a copy of the USPS Track & Confirm record, which states the exact date, time and location that the package in question was accepted.

A petition under 37 CFR 1.10 does not require a petition fee. Accordingly, the $130.00 submitted with the instant petition will be credited to petitioner's deposit account as authorized.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: MITCHELL J. WEINSTEIN
WELSH & KATZ, LTD.
120 SOUTH RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 2/2/05

2 Serial/Patent # 10787032

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	Pet.	10/12/04	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130.00

8 TO BE REFUNDED BY:

✓	Treasury Check
✓	Credit Deposit A/C #:

9 2 3 -- 0 9 2 0

10 REASON:

	Overpayment
✓	Duplicate Payment
✓	No Fee Due (Explanation):

No petition fee was required.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: L. Chase TITLE: Paralegal

SIGNATURE: L. Chase PHONE: 272-3206

OFFICE: Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Alicia Kelly DATE: 2/4/05

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 23 2005

MAYER, BROWN, ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

In re Application of	:
Robert E. Dudley et al	:
Serial No.: 10/787,071	: SUSPENSION OF ACTION
Filed: February 25, 2004	:
Attorney Docket No.: 04251764	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed September 13, 2005.

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 pending litigation.

§ 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 litigation pending in the District Court in Georgia involving two cases. No indication is given as to when the cases were filed, their status or approximate date of decision or resolution nor how any decision would affect prosecution or patentability in this application. 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 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 the Office general facsimile number, 571-273-8300.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

KONRAD RAYNES & VICTOR, LLP.
ATTN: INT77
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS CA 90212

In re Application of	:	
Michelle C. Clayton	:	
Application No. 10/787,074	:	DECISION ON PETITION
Filed: February 19, 2004	:	PURSUANT TO
Attorney Docket No.: P17730	:	37 C.F.R. § 1.181
Title: GENERATING TOPOLOGY	:	
INFORMATION IDENTIFYING DEVICES	:	
IN A NETWORK TOPOLOGY	:	

This is a decision on the petition filed April 14, 2008, 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 reply in a timely manner to the notice of non-compliant amendment, mailed November 15, 2007, which set a period for reply of one month. No further responses were received. Accordingly, the above-identified application became abandoned on December 16, 2007. A notice of abandonment was mailed on March 26, 2008.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning

of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

With this petition, Petitioner has provided a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the

USPTO, and has established that the docketing system is sufficiently reliable. The practitioner has further stated that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including the file jacket and its contents indicated that the Office action was not received. Finally, a copy of the master docket used by the practitioner where the non-received notice of non-compliant amendment would have been entered had it been received has been included.

The petition pursuant to 37 C.F.R. § 1.181 is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the notice of non-compliant amendment of November 15, 2007, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival or withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[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 of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUL 2 2 2004

DCM

In re Application of	:	
Peter T. Halpin, et al.	:	
Serial Number: 10/787,085	:	PETITION UNDER
Filed: February 27, 2004	:	M.P.E.P.708.02 V
For: RECOVERY OF METAL VALUES FROM CERMET	:	

This is in response to the petition filed February 27, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 V of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 V 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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314

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

PING-TUNG SU
P.O BOX 44-2049
TAIPEI R.O.C 10668 TW TAIWAN

COPY MAILED

APR 2 0 2007

OFFICE OF PETITIONS

In re Application of

Ping-Ting Su

Application No. 10/787,090

Filed: February 27, 2004

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), January 26, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed September 8, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on December 9, 2006. A Notice of Abandonment was mailed on December 22, 2006.

The issue fee and publication fee were received on January 26, 2007.

Form PTOL-85B, filed January 27, 2007, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

OCT 2 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO ON M5G2K-8 CA CANADA

In re Application of
Xin Jin, et al.
Application No. 10/787,097
Filed: February 27, 2004
For: **METHOD AND APPARATUS FOR OPTIMIZING TRANSMITTER POWER EFFICIENCY**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed October 5, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition does not fulfill the requirement in item (6) above. For a successful petition pursuant to 37 C.F.R. §1.102 and specifically, MPEP §708.02 (VIII) Accelerated Examination, the petition must 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. With respect to the subject petition, applicants have provided information regarding the distinction between the claims and the cited art, but have failed to specifically point out the patentable novelty that the claims present in view of the state of the art disclosed by the references cited.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required. Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

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
www.uspto.gov

OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

COPY MAILED

JAN 17 2007

OFFICE OF PETITIONS

Applicant: Zhang et al.
Appl. No.: 10/787,107
Filing Date: February 27, 2004
Title: METHOD AND APPARATUS FOR DERIVING OPTIMAL PATHS THROUGH A NETWORK SUBJECT TO A SUBSET SEQUENCE CONSTRAINT
Attorney Docket No.: 9-13528-202US
Pub. No.: US 2005/0190704 A1
Pub. Date: September 1, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 28, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material error, as the format of the identifiers do not appear as they appeared in the application as filed.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors in the formatting of the identifiers are Office errors, but they are not a material Office errors under 37 CFR 1.221. The formatting does not affect the understanding of the application. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR &
BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

MAILED

MAY 3 1 2006

Technology Center 2100

In re Application of:
Y. MIMATSU et al.
Application No. 10/787,112
Filed: February 27, 2004
For: METHOD AND APPARATUS FOR SETTING ACCESS RESTRICTION INFORMATION

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 08 September 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 08 September 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/22/06

TO SPE OF : ART UNIT 2110

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/787116 Patent No.: 6952742B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

REHANA PERVEEN
SUPERVISORY PATENT EXAMINER

SPE

2112
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

COPY MAILED

AUG 2 5 2008

In re Application of	:	
Koichiro Tanaka et al	:	
Application No. 10/787,120	:	DECISION GRANTING PETITION
Filed: February 27, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7259	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 22, 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 21, 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 2892 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND, MAIER
& NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED

NOV 1 0 2004

OFFICE OF PETITIONS

In re Application of :
Heidi Wachter :
Application No. 10/787,135 :
Filed: April 27, 2004 :
Attorney Docket No. 249404US26 :

DECISION ON PETITION

This is in response to the petition under 37 CFR 1.47(b), filed October 20, 2004. Petitioner submitted a three-month extension of time to reply. Accordingly, the petition is timely filed.

The petition is **granted**.

Petitioner has shown that Heidi Wachter, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the Declaration of Facts of Philip Hoffmann establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that she sign the declaration. In addition, petitioner states Mitsubishi Chemical America, Inc. has a proprietary interest in the above-identified application because Ms. Wachter assigned the subject matter of provisional application No. 60/139,478, to Mitsubishi Chemical America, Inc., which is the same subject matter of the above-identified application. A copy of the assignment accompanies the petition. Furthermore, petitioner authorized payment of the petition fee. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries 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

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

COPY MAILED
OCT 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Grant HAY et al	:	
Application No. 10/787,158	:	DECISION ON PETITION
Filed: February 27, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 040849-0256	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119 for the benefit of priority to prior-filed provisional Application No. 60/451,342, filed February 28, 2003.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119 and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition requests that the application data sheet (ADS) filed with the application on February 27, 2004 be amended to reflect that this application is claiming benefit of priority to provisional Application No. 60/451,342 rather than to 60/451,632, the application now appearing on the ADS. However, the manner of making this amendment is improper and therefore unacceptable as a proper reference under 37 CFR 1.78(a)(5)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 provides that the claim (in this case, the claim for priority) must commence on a separate physical sheet.

The rule at 37 CFR 1.4(c) provides that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a proper amendment in compliance with the aforementioned rules by either submitting an amendment to the first line of the specification following the title or by submitting a supplemental ADS, along with a renewed petition under 37 CFR 1.78(a)(6).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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

COPY MAILED

JUL 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Grant HAY et al	:	
Application No. 10/787,158	:	DECISION ON PETITION
Filed: February 27, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 040849-0256	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed March 22, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment and Application Data Sheet.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

The amendment to the specification to include the claim for benefit of priority to the provisional application is improper. Specifically, the reference to add the prior-filed provisional 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 provisional 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). However, the claim for benefit of priority to the prior-filed provisional application properly appears on the Application Data Sheet and will be used for purposes of amending the application to claim priority under 35 U.S.C. § 119(e).

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 2875 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/787,158	02/27/2004	2875	3266	040849-0256	91	11

CONFIRMATION NO. 4601

CORRECTED FILING RECEIPT

OC000000024866819

22428
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Date Mailed: 07/17/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Grant Hay, Evansville, IN;
Kevin P. Capaldo, Mt. Vernon, IN;
Gheorghe Cojocariu, Evansville, IN;
Karkala Arun Kumar, Evansville, IN;
Theodorus Lambertus Hoeks, Bergen op Zoom, NETHERLANDS;
Todd M. Loehr, Evansville, IN;
John F. Graf, Ballston Lake, NY;
Nathan D. Hoffman, Evansville, IN;
Scott Leslie, Lanesboro, MA;
Anshu Ghosal, New Delhi, INDIA;
Philippe Schottland, Evansville, IN;

Assignment For Published Patent Application

GENERAL ELECTRIC COMPANY

Power of Attorney:

Harold Wegner--25258
Richard Schwaab--25479
Kenneth Krosin--25735
Peter Mack--26001
Ronald Myrick--26315
Henry Policinski--26621
William Ellis--26874
Harvey Fendelman--27030
Alan Cantor--28163
John Feldhaus--28822

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/451,342 02/28/2003

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 US10/787,158

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Diffuser for flat panel display

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREENSFELDER HEMKER & GALE PC
SUITE 2000
10 SOUTH BROADWAY
ST LOUIS MO 63102

COPY MAILED
SEP 28 2006
OFFICE OF PETITIONS

In re Application of Allan James Becker	:	
Application Number: 10/787,177	:	DECISION ON PETITION
Patent: 6,976,557 Filing Date: February 27, 2004	:	
Issue Date: December 20, 2005	:	

This is a decision on the petition to correct the name of the assignee under 37 CFR 1.322 filed on August 18, 2006. The petition is properly treated 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 petition is **Granted**.

Pursuant to petitioner's request deposit account 07-1985 will be charged the $130.00 processing fee.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction

[1]See 69 Fed. Reg. 29865 (May 26, 2004).

should be directed to the Certificate of Correction Branch at (703) 305-8309.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

COPY MAILED
AUG 1 3 2004
OFFICE OF PETITIONS

In re Application of :
Chang, et al. :
Application No. 10/787,212 : ON PETITION
Filed: February 27, 2004 :
Attorney Docket No. BHT/3110-171 :

This is a decision on the petition filed July 16, 2004, requesting that the above-identified application be accorded a filing date of February 27, 2004, including Figure 1A as described in the specification.

The application was filed on February 27, 2004. However, on May 17, 2004, the Office of Initial Patent Application mailed a "Notice To File Corrected Application Papers" (Notice) that stated the application had been accorded a filing date, but Figure 1A as described in the specification appears to have been omitted.

In response, on July 16, 2004, the instant petition was submitted. Petitioner asserts that Figure 1A was submitted with the original drawings. Petitioner states that the drawing "to the left of the Chinese characters which end in "A", should be correctly labeled as Figure 1A. Furthermore, petitioner adds,"the Figure 1-A was incorrectly identified by a legend comprising Chinese characters, but was present in this figures as filed." Petitioner has submitted a corrected drawing sheet in which the figure is correctly identified as "Figure 1A."

In view of the above, it appears that the drawing of Figure 1A was present on February 27, 2004, but mislabelled by applicants. Since it is now clear that Figure 1A was present on February 27, 2004, albeit mislabeled, the Figure may be considered as filed with the application on February 27, 2004.

The petition is granted.

Please note, the $130.00 petition fee is required, since a petition was necessary to correct applicants' filing error, and not necessitated by any error on the part of the Office.

This application will be returned to OIPE for further processing with a filing date of February 27, 2004, and using the drawing containing Figure 1A, submitted on July 16, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 306-9200.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of
Rasmussen
Application No. 09/926,310
Filed October 11, 2001
Attorney Docket No. 3330
For: FOOD PRODUCT WHICH ARTIFICIALLY HAS BEEN GIVEN A CELL-LIKE STRUCTURE BY COEXTRUSION OF SEVERAL COMPONENTS, AND METHOD AND APPARATUS FOR MANUFACTURING SUCH FOOD PRODUCT

ON PETITION

COPY MAILED

SEP 17 2004

OFFICE OF PETITIONS

In re Application of
Rasmussen
Application No. 10/787,214
Deposited: February 27, 2004
Attorney Docket No. RASMUS 9.0-001
For: FOOD PRODUCT WHICH ARTIFICIALLY HAS BEEN GIVEN A CELL-LIKE STRUCTURE BY COEXTRUSION OF SEVERAL COMPONENTS, AND METHOD AND APPARATUS FOR MANUFACTURING SUCH FOOD PRODUCT

This is a decision on (1) the petition requesting that application no 10/787,214 be accorded a filing date of February 27, 2004 as a CPA of application no. 09/926,310 and (2) the petition requesting that application no. 09/926,310 be revived under 37 CFR 1.137(a) so that a CPA could be filed. Both petitions were filed on July 30, 2004 (certificate of mailing date July 26, 2004).

The petition, treated under 37 CFR 1.53(e), to accord application no. 10/787,214 a filing date of February 27, 2004 as a CPA of application no. 09/926,310 is **DISMISSED**.

The petition under 37 CFR 1.137(a) to revive application no. 09/926,310 so that a CPA could be filed is **DISMISSED**.

Petitioner is given TWO MONTHS FROM THE DATE OF THIS DECISION within which to request reconsideration. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

A Notice of Allowance and Fee(s) Due was mailed in application no. 09/926,310 on December 1, 2003. Petitioner filed a 312 amendment on February 12, 2004.

Application no. 10/787,214 was deposited on February 27, 2004 without a specification. Accordingly, on May 24, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date and that the filing date will be the date of receipt of the specification.

The instant petitions were filed on July 30, 2004.

PETITION UNDER 37 CFR 1.53(E) IN APPLICATION NO. 10/787,214

Petitioner explains that the former attorney of record, William J. Daniel, intended to file a CPA of application no. 09/926,310 on February 27, 2004, but used an out of date transmittal form intended for use in filing an application under 37 CFR 1.53(b). Mr. Daniel modified the 1.53(b) form and requested that the Office utilize the file wrapper and contents of prior application no. 09/926,310 and abandon application no. 09/926,310 as of the filing date of the present application. However, Mr. Daniel did not type the word "CPA" anywhere on the form. It is noted that the Preliminary Amendment referred to the application as a "new CONTINUATION application." The Office properly processed the application as a 37 CFR 1.53(b) application.

Even if the papers filed on February 27, 2004 were considered a CPA, petitioner is informed that effective July 13, 2003, CPA practice was eliminated as to utility and plant applications. *See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications*, Final Rule, 68 *Fed. Reg.* 32376 (May 30, 2003). Any request for a CPA filed on or after July 14, 2003 in a utility or plant application is improper, regardless of the filing date of the utility of plant application in which the CPA is filed. MPEP 201.06(d).

In short, applicant can not file a CPA. The petition under 37 CFR 1.53(e) is dismissed.

PETITION UNDER 37 CFR 1.137(a) IN APPLICATION NO. 09/926,310

A copy of the petition filed in application no. 10/787,214 will be placed in the file of application no. 09/926,310 to complete the record of application no. 09/926,310. Without it, the 137(a) petition is incomplete.

Petitioners request revival of parent application no. 09/926,310 in order to retain copendency between it and child application no. 10/787,214. This is possible.

Application no. 09/926,310 became abandoned for failure to timely pay the issue fee within three (3) months of the mailing of the December 1, 2003 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on March 2, 2004. The filing of the instant revival petition precedes the mailing of A Notice of Abandonment.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c). The instant petition lacks item (3).

Regarding (3) above, petitioners have not shown to the satisfaction of the Commissioner that the entire delay from the due date of the reply to the filing of a grantable petition was

unavoidable.

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 have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications 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.

Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner knew that the issue fee was due on March 1, 2004. Petitioner did not pay the issue fee. Petitioner attempted to file a CPA when that it was not possible. Therefore, a proper reply was not filed in a timely manner. A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

The petition under 37 CFR 1.137(a) is dismissed.

RECOMMENDED ACTION

Petitioner should provide a copy of the parent application **in application no. 10/787,214** in response to the May 24, 2004 Notice of Incomplete Nonprovisional Application, along with

an explanation as to why petitioner was delayed in responding to the Notice. The application will be accorded a filing date as of the date of receipt of the specification, claims, and drawings.

Then petitioner should file a petition to revive under 37 CFR 1.137(b) **in application no. 09/926,310.** As long as application no. 10/787,214 is deemed complete and has a filing date before application no. 09/926, 310 patents, the two applications will have copendency.

Further correspondence with respect to these petitions should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Application no. 10/787,214 will be returned to the Office of Initial Patent Examination to await receipt of the specification, claims, and drawings from the parent application and an explanation as to why petitioner was delayed in responding to the May 24, 2004 Notice.

Any inquiries pertaining to this decision may be directed to the undersigned at (703) 308-6712.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

COPY MAILED

FEB 0 4 2005

OFFICE OF PETITIONS

In re Application of
Rasmussen
Application No. 10/787,214
Deposited: February 27, 2004
Attorney Docket No. RASMUS 9.0-001
For: FOOD PRODUCT WHICH ARTIFICIALLY HAS BEEN GIVEN A CELL-LIKE STRUCTURE BY COEXTRUSION OF SEVERAL COMPONENTS, AND METHOD AND APPARATUS FOR MANUFACTURING SUCH FOOD PRODUCT

ON PETITION

This is a decision on the correspondence filed on September 28, 2004, which is being treated as a request for reconsideration of the September 17, 2004 decision on petition.

Application no. 10/787,214 was deposited on February 27, 2004 without a specification. Accordingly, on May 24, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application had not been accorded a filing date and that the filing date will be the date of receipt of the specification.

Applicant's July 30, 2004 petition to accord the above-identified application a February 27, 2004 filing date was dismissed on September 17, 2004 because the former attorney of record, William J. Daniel, intended to file a CPA of application no. 09/926,310 on February 27, 2004, but used an out of date transmittal form intended for use in filing an application under 37 CFR 1.53(b) and did not not mention the word "CPA." The Office properly processed the application as a 37 CFR 1.53(b) application.

Even if the papers filed on February 27, 2004 were considered a CPA, petitioner was informed that effective July 13, 2003, CPA practice was eliminated as to utility and plant applications. *See Elimination of Continued Prosecution Application Practice as to Utility and Plant Patent Applications*, Final Rule, 68 *Fed. Reg.* 32376 (May 30, 2003). Any request for a CPA filed on or after July 14, 2003 in a utility or plant application is improper, regardless of the filing date of the utility of plant application in which the CPA is filed. MPEP 201.06(d).

In short, applicant could not file a CPA and the petition under 37 CFR 1.53(e) was dismissed.

Pursuant to the instructions given in the September 17, 2004 decision on petition, petitioner has provided a copy of the parent application. No. 09/926,310 and a newly executed oath/declaration in response to the May 24, 2004 Notice of Incomplete Nonprovisional Application, along with an explanation as to why petitioner was delayed in responding to the Notice.

Accordingly, the above-identified application is entitled to a filing date of **September 28, 2004**, which is the date of receipt of the specification, claims, and drawings. Pursuant to petitioner's authorization, deposit account no. 12-1095 will be charged a $130.00 fee.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **September 28, 2004**, using the copy of the specification, claims and drawings submitted with the instant reconsideration petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
SUITE 500
IRVINE, CA 92612-7108

Mail Date: 04/21/2010

Applicant	: Andrew T. Fausak	: DECISION ON REQUEST FOR
Patent Number	: 7587711	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/787,224	: OF WYETH
Filed	: 02/27/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

JUL 1 5 2004

OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
IRVINE CA 92612-7107

In re Application of
Ryan Mason, et al
Application No. 10/787,226
Filed: February 27, 2004
Attorney Docket No. 049051-0222

DECISION ON PETITION

This is a decision on the petition filed May 28, 2004, requesting that the above-identified application be accorded a filing date of February 27, 2004.

The application was deposited on February 27, 2004. However, on May 17, 2004, Initial Patent Examination Division mailed a Notice stating that, while a filing date had been accorded the application papers, page two of the specification was missing from the application.

In response, on May 28, 2004, the present petition was filed wherein petitioner argues that a specification having thirty-two (32) pages was submitted on filing, including page two (2). As evidence thereof, petitioner submitted, inter alia, a copy of his postcard receipt. Petitioner requests that the application, including page two of the specification, be accorded a filing date of February 27, 2004. A copy of page two (2) of the specification accompanied the petition.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: (1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on February 27, 2004; (2) it specifically identifies the items being filed, including "32 pages of specification; 8 pages of claims; 1 page of abstract; and 7 pages of drawings"; and (3) it lacks any annotation of non-receipt of any item denoted on the postcard.

The application papers already considered received in the Office of on February 27, 2004, were reviewed along with the missing page of specification submitted on petition. These papers together constitute the items described on the postcard receipt. Petitioner has shown that page 2 of the specification was among the items present in the application on the date of deposit and should be included in the original disclosure.

In view of the above, the petition is GRANTED. The petition fee, which was charged to counsel's deposit account, is being refunded thereto.

The Notice mailed May 17, 2004, was sent in error and is hereby VACATED.

The application is being returned to Initial Patent Examination Division for consideration of the request for a corrected filing receipt and for further processing with a filing date of February 27, 2004, using the copy of page 2 filed May 28, 2004.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy