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FEB - 9 2006

MINTZ LEVIN COHN FERRIS
GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

In re application of : **DECISION ON PETITION**
Han Chen et al : **TO MAKE SPECIAL**
Application No. 10/797,143 : **(ACCELERATED**
Filed: March 11, 2004 : **EXAMINATION)**
For: SYSTEMS AND METHODS FOR DETERMINING CONCENTRATIONS OF EXPOSURE

This is in response to the petition filed on October 18, 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. Regarding item (B), the petition does not include a statement that all claims are being directed to a single invention, or an election without traverse if the Office determines that all claims are not directed to a single invention.

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.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 11/9/05

MAILED
FROM DIRECTORS OFFICE

MAR 30 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

TECHNOLOGY CENTER 3600

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MINTZ LEVIN COHN FERRIS
GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

In re application of
Han Chen, et al
Application No. 10/797,143
Filed: March 11, 2004
For: SYSTEMS AND METHODS FOR DETERMINING CONCENTRATIONS OF EXPOSURE

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the renewed petition filed on March 14, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

SNM/dcg: 3/27/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF DALE B. HALLING
24 S. WEBER ST., SUITE 311
COLORADO SPRINGS, CO 80903

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FEB 17 2005

OFFICE OF PETITIONS

In re Application :
Gary P. Moscaluk et al :
Application No. 10/797,147 : LETTER
Filed: March 10, 2004 :
Attorney Docket No. CYP-0403 :

This is in response to the paper filed October 19, 2004 which is being treated under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the October 19, 2004 request, status as a Small Entity has been removed.

This matter is being referred to Technology Center AU 2816.

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
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IMMERSION – THELEN REID BROWN RAYSMAN & STEINER LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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JUN 15 2007

OFFICE OF PETITIONS

In re Application of :
Joeben Bevirt et al :
Application No. 10/797,155 :
Filed: March 11, 2004 :
Attorney Docket No. IMMR-0019B :

ON PETITION

This is a decision on the petition filed December 19, 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 July 28, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on October 29, 2006.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Thomas P. Liniak
Liniak, Berenato & White
6550 Rock Spring Drive, Suite 240
Bethesda MD 20817

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AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenneth **LOWE**	:	
Application No. 10/797,184	:	DECISION ON PETITION
Filed: March 11, 2004	:	TO WITHDRAW
Attorney Docket No. 7561.00	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Amelia Au
Petitions Examiner
Office of Petitions

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DAVIS WRIGHT
TREMAINE, LLP/SEATTLE
1201 THIRD AVENUE, SUITE 2200
SEATTLE WA 98101-3045

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OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Hsieh :
Application No. 10/797,192 : DECISION ON PETITION
Filed: 11 March, 2004 :
Attorney Docket No. 88910-108 :

This is a decision on the petition filed under 37 C.F.R. §1.55(c) on 15 June, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(a)-(d) for the benefit of priority to a prior-filed foreign applications, Taiwan Application No. 092215410, filed on 26 August, 2003, as set forth in the subsequently filed declaration and the signed supplemental Application Data Sheet (ADS)).

A petition under 37 C.F.R. §1.55(c) to accept an unintentionally delayed claim for priority requires:

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 C.F.R. 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this appli-cation to be entitled to the benefit of the prior-filed applications, all other requirements under 35 § U.S.C. 119(a)-(d) and 37 C.F.R. 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 this application is entitled to the benefit of the earlier filing date.

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

This application is being forwarded to Technology Center AU 2629 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §119 to the prior-filed application.

Any inquiries concerning this decision may be directed to John Gillon, 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.

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
10/797,192	03/11/2004	2629	990	88910-108	6	1

CONFIRMATION NO. 4738

CORRECTED FILING RECEIPT

22504
DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE, WA 98101-3045

Date Mailed: 10/01/2009

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)

Kao-Cheng Hsieh, Taipei, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 22504

Domestic Priority data as claimed by applicant

Foreign Applications
TAIWAN 092215410 08/26/2003

If Required, Foreign Filing License Granted: 05/29/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/797,192**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Wireless human input device

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 AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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APR 24 2008

In re Application of
Paivi M. Ruuska et al.
Application No. 10/797,205
Filed: March 9, 2004
Attorney Docket No: 4208.4131US1

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment, filed March 26, 2008, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned on October 11, 2007, for failure to file a timely response to the non-Final Office Action mailed July 10, 2007, which set a three (3) month statutory period for reply. The instant petition and this petition precede the mailing of the Notice of Abandonment but Petitioner asserts that the non-Final Office Action was never received.

The file record discloses that the Office Action was mailed to the address of record which is the same address used on all correspondences from the USPTO. Petitioner has provided a copy of the docket report, wherein receipt of the Office Action mailed July 10, 2007 would have been filed, had it been received. To show that the Notice mailed July 10, 2007 was not received, petitioner also explains that after searching the file jacket it was concluded that no correspondence was received for this matter from the USPTO,

In that the statement from the petitioner and the exhibit from the docket record for the instant matter show no entry indicating receipt of the non-Final Office Action mailed July 10, 2007, it is apparent that it was not received. The evidence submitted corroborates non-receipt of the Office Action.

In view of the facts set forth in the petition, it is concluded that the Office Action was never received at the address of record. Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2614 for a re-mailing of the non-Final Office Action and for a restarting of the period for response.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Soichi Sakural, et al. :
Application No. 10/797,206 : ON PETITION
Filed: March 9, 2004 :
Attorney Docket No.: 16869P-060210US :
:

This is a decision on the petition, filed November 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 November 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 2828 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
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Date : December 7, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Soichi Sakural, et al.
Application No. : 10/797,206
Filed : March 9, 2004

The above-identified application has been assigned Patent No. 6,979,961 and an issue date of December 27, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 27, 2005:

> "All reference to Patent No. 6,979,961 to SOICHI SAKURAL, ET AL. JAPAN for DEFLECTION YOKE AND CATHODE RAY TUBE DEVICE appearing in the Official Gazette of December 27, 2005, should be deleted since no patent was granted."

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

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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OFFICE OF PETITIONS

In re Application of Ya-Fen et al. :
Application No. 10/797,207 : Decision on Petition
Filing Date: March 9, 2004 :
Attorney Docket No. 2102397-992990 :

This is a decision on the petition under 37 CFR 1.137(a), filed August 31, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

A Notice of Allowance and a Notice of Allowability were mailed on January 31, 2005.

The issue fee and publication fee were not timely received.

The application became abandoned as of midnight on April 30, 2005.

A Notice of Abandonment was mailed on July 8, 2005.

Petitioner contends the issue fee and publication fee were timely and properly mailed to the Office on April 25, 2005.

On or about July 19, 2005, the papers mailed by petitioner on April 25, 2005, were returned in a mangled form. The outside of the envelope stated the envelope was not deliverable as addressed.

Upon receipt of the petition, the petition and other papers were scanned into an electronic file wrapper by the USPTO. As a result, the copy of the envelope is illegible. A review of the electronic image indicates the zip code on the envelope may be correct. If the zip code is incorrect, petitioner may provide an unavoidable showing by establishing petitioner was reasonable in relying on the person who typed the address not to make mistakes. Petitioner may wish to briefly discuss the experience and past performance of the employee. Since the mistake, if one exists, was a typographical error, the amount of evidence needed regarding the employee who made the error is minimal.

A copy of the issue fee transmittal form mailed April 25, 2005, is requested. A review of the copy will allow the Office to note the certificate of mailing date on the form. In addition, petitioner apparently wishes for assignee information and attorney information to appear on the front of the patent.

A decision of the petition under 37 CFR 1.137(b), filed in the alternative, will be held in abeyance. Therefore, if the renewed petition is granted under 37 CFR 1.137(a), the $1,500 fee for a petition under 37 CFR 1.137(b) will not be charged to petitioner's deposit account.

The $500 fee for the petition under 37 CFR 1.137(a) has been charged to petitioner's deposit account.

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(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 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of Ya-Fen et al. :
Application No. 10/797,207 : Decision on Petition
Filing Date: March 9, 2004 :
Attorney Docket No. 2102397-992990 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed December 19, 2005, to revive the above-identified application. The petition has been filed in the alternative under 37 CFR 1.137(b).

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

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

A Notice of Allowance and a Notice of Allowability were mailed on January 31, 2005. The issue fee and publication fee were not timely received. The application was deemed abandoned as of midnight on April 30, 2005. A Notice of Abandonment was mailed on July 8, 2005.

Petitioner has proven the issue fee and publication fee were timely and properly mailed to the Office on April 25, 2005. Therefore, the petition under 37 CFR 1.137(a) is granted.

Since the petition under 37 CFR 1.137(a) has been granted, the petition under 37 CFR 1.137(b) is unnecessary and dismissed as moot. A fee for the petition under 37 CFR 1.137(b) has not been charged to petitioner's deposit account.

The Office of Publications will be informed of the instant decision so that steps can be taken to issue the application as a patent.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 29 2007

OFFICE OF PETITIONS

RONALD B. SHERER
103 SOUTH SHAFFER DRIVE
NEW FREEDOM, PA 17349

In re Application of
Raul Vicente Munoz, et al.
Application No. 10/797,230
Filed: March 10, 2004
Attorney Docket No. HOLMES-2

ON PETITION

This is a decision in response to the petition, filed August 7, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 8, 2005. A Notice of Abandonment was mailed on August 3, 2006. In response, on August 7, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the requisite statement of unintentional delay.

It is noted that a copy of the present petition was filed on November 1, 2006. As the petition filed November 1, 2006 is unnecessary, the $750 petition fee paid is being refunded to counsel's deposit account.

This application is being referred to Technology Center AU 3711 for further processing of the response filed August 7, 2006.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,237	03/10/2004	Paulus Antonius Augustinus Hofte	9177	2993

7590 08/22/2008

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER	
SPISICH, MARK	
ART UNIT	**PAPER NUMBER**
3723	
MAIL DATE	**DELIVERY MODE**
08/22/2008	PAPER

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.
4. ☐ Petition fee was not paid.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Kalethea Buchanan
Patent Publication Branch
Office of Data Management

08/22/2008 KKING1 00000001 162480 10797237

01 FC:1464 130.00 DA

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MAR 1 5 2006

Director's Office
Office of Patent Publication

MICHAEL G. FLETCHER
FLETCHER YODER
P.O. BOX 692289
HOUSTON, TX 77269-2289

In re Application of :
HO, DUC V., et al. :
Application No. 10/797,240 : **DECISION ON PETITION**
Filed: March 10, 2004 :
Attorney Docket No. MICS:0120/FLE 03-0231 :

This is a decision on the Petition Under 37 CFR § 1.181(a) To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) on March 8, 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 above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due, mailed May 27, 2005.

The Office acknowledges receipt of Part B – Fee(s) Transmittal on August 29, 2005, authorizing that the Issue Fee be charged to Deposit Account No. 03-0321. Unfortunately, on August 30, 2005, when an attempt was made by the Office of Finance to charge the fee, there was an insufficient fund in the Deposit Account.

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

> 1.25(a) …An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Michael G. Fletcher
Fletcher Yoder
P.O. Box 692289
Houston TX 77269-2289

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :
Ho et al. : DECISION ON PETITION
Application No. 10/797,240 :
Filed: March 10, 2004 :
Attorney Docket No. MICS:0120 (03-0231) :

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2006, to revive the above-identified application.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on May 27, 2005, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on August 28, 2005. A Notice of Abandonment was mailed on November 29, 2005.

Petitioner has met the requirements under 37 CFR 1.137(b). Accordingly, the petition is **granted.**

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

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.

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
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Alexandria, VA 22313-1450
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McDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON, DC 20005-3096

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Yoshito Date et al
Application No. 10/797,245
Filed: March 11, 2004
Attorney Docket No. 60188-780

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

This is a decision on the petition, filed September 14, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 30, 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 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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GROSSMAN, TUCKER, PERREAULT & PFLEGER
55 SOUTH COMMERCIAL STREET
MANCHESTER NH 03101

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OFFICE OF PETITIONS

In re Application of	:	
John MacDonald et al	:	
Application No. 10/797,247	:	DECISION GRANTING PETITION
Filed: March 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TRM A2596DIV2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of November 18, 2004, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1772.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS DICKEY & PIERCE PLC
7700 BONHOMME, SUITE 400
ST. LOUIS, MO 63105

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Carl R. Vanderschuit :
Application No. 10/797,251 : DECISION GRANTING PETITION
Filed: March 10, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9053-000070US :

This is a decision on the petition, filed March 27, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 14, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2875 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

Donna J. Russell
1492 Anthony Way
Mt. Juliet, TN 37122

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OFFICE OF PETITIONS

In re Application of	:	
Bert C. Lampson et al.	:	
Application No. 10/797,262	:	DECISION ON PETITION
Filed: March 10, 2004	:	TO WITHDRAW
Attorney Docket No. ETSURF-Tirt	:	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 13, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dr. Michael Woodruff, Executive Director**
East Tennessee State University Research Foundation
2109 West Market Street
Johnson City, TN 37604

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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JUL 12 2004

OFFICE OF PETITIONS

In re Application of :
Hammer et al. :
Application No.: 10/797,270 : ON PETITION
Filing Date: March 10, 2004 :
Attorney Docket No.: 045600/275110 :

This decision concerns the June 14, 2004 "Petition to Grant Filing Date and to Refund Petition Fee" which is being properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

The petition requests an earlier filing date of March 10, 2004 rather than the presently accorded filing date of March 11, 2004, on the basis that the application was deposited on March 10, 2004 in the U.S. Postal Service (USPS) "Express Mail Post Office to Addressee" service ("Express Mail") pursuant to the requirements of 37 CFR 1.10.

The petition is accompanied by a copy of the "Express Mail" mailing label bearing the number "EV185285533US" and containing a USPS date-stamp of March 10, 2004. The same mailing label number appears on the application transmittal which itemizes the application papers being mailed on March 10, 2004. In addition, the Office has verified through the USPS web site that the package mailed under this label had been accepted by the USPS on March 10, 2004 at 5:30 pm. The petition is thus granted.

No petition fee is owed. The $130 payment accompanying the petition was apparently refunded on July 1, 2004. If counsel has not received this refund, a request for refund should be mailed along with a copy of this decision to: Mail Stop 16 (Refunds), Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

The application file is being forwarded to the Office of Initial Patent Examination for correcting the filing date to March 10, 2004, and for mailing a corrected filing receipt reflecting that filing date.

Telephone inquiries should be directed to the undersigned at (703) 308-0763.

RC Tang
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/797,270	03/10/2004	1638	493	045600/275110	4	17	4

CONFIRMATION NO. 3263

UPDATED FILING RECEIPT

OC000000013115358

00826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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)

Philip E. Hammer, Cary, NC;
Todd K. Hinson, Rougemont, NC;
Nicholas B. Duck, Apex, NC;
Michael G. Koziel, Raleigh, NC;

Assignment For Published Patent Application

Athenix Corporation, Durham, NC;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/27/2004

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Methods to confer herbicide resistance

Preliminary Class

800

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

GRANTED

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

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

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

NOT GRANTED

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

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FROM DIRECTORS OFFICE

JUL 21 2005

TECHNOLOGY CENTER 3600

WARNER NORCROSS & JUDD LLP
900 FIFTH THIRD CENTER
111 LYON STREET, N.W.
GRAND RAPIDS, MI 49503-2487

In re application of : **DECISION ON PETITION**
Robert R. Sutter JR. et al. : **TO MAKE SPECIAL**
Application No. 10/797,294 : **(INFRINGEMENT)**
Filed: March 10, 2004 :
For: FOLDABLE HEAD RESTRAINT

This is a decision on the petition under 37 C.F.R § 1.102(d) filed December 13, 2004 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed December 13, 2004 lacks requirements 2(A) above. Regarding requirement 2(A), it is not clear from petitioner's statement if he is stating that "there is an infringing device or product actually on the market or method in use".

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

KJD/slb: 07/19/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PAUL MARSHALL
DELPHI TECHNOLOGIES, INC.
LEGAL STAFF, MAIL CODE: 480-410-202
P.O. BOX 5052
TROY MI 48007-5052

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FEB 17 2009

OFFICE OF PETITIONS

In re Application of
Robert J. Svoboda et al.
Application No. 10/797,301
Filed: March 9, 2004
Attorney Docket No. **DP-308342**

DECISION ON PETITION
UNDER § 1.183

This is a decision in response to the petition filed January 21, 2009, under 37 CFR § 1.183 for waiver of the requirement under 37 CFR § 1.131 that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **GRANTED**.

The above-identified application was filed on March 9, 2004, with a 37 CFR 1.63 declaration signed by all of the inventors. With the instant petition, applicants filed a 37 CFR § 1.131 declaration. The 37 CFR § 1.131 declaration has been executed by joint inventor Svoboda but not by joint inventor Keller. Applicants have filed the instant petition to have the 37 CFR § 1.131 declaration accepted as signed by joint inventor Svoboda on his own behalf and on behalf of non-signing inventor Joseph M. Keller.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR § 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR § 1.183 to be granted to waive this requirement that joint inventor Keller sign the 37 CFR § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain joint inventor Keller's signature on the37 CFR § 1.131 declaration. Applicants have shown that a bona fide effort was made to reach or locate inventor Keller to present the 37 CFR § 1.131 declaration and supporting documentation. The declaration presented is signed by joint inventor Svoboda. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that the 37 CFR § 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. This is not a decision on the merits of the declaration.

Petitioner is advised that the fee for a petition under 37 CFR 1.183 is set at $400 not $130 as indicated in the petition. As such, petitioner's deposit account no. 50-4635 has been appropriately charged in the amount of $400.

This matter is being referred to Technology Center 1792 for consideration on the merits of the reply and the 37 CFR § 1.131 declaration, filed January 21, 2009.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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SEP 29 2009

OFFICE OF PETITIONS

USDA-ARS-OFFICE OF TECHNOLOGY TRANSFER
PATENT ADVISORS OFFICE
WESTERN REGINAL RESEARCH CENTER
800 Buchanan St.
Albany CA. 94710

In re Application of :
Niu DONG et al :
Application No. 10/797,346 : ON PETITION
Filed: March 10, 2004 :
Attorney Docket No. 0109.03 :

This is in response to the communication, filed July 2, 2009 , to revive the above-identified application, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On January 11, 2008, the Office mailed a final Office action, which set a three month shortened statutory period to reply. The application became abandoned on April 8, 2008, for failure to submit a timely and proper response to the final Office action. On August 1, 2008, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment since any patent term adjustment(PTA) will be reduced under the provisions of 37 CFR 1.704(c)(4) and in any event the Office could require a terminal disclaimer as a condition of granting the petition to withdraw the holding of abandonment. Finally, petitioner submits that applicant replied with a bona fide attempt to advance prosecution by responding with an amendment to address the objections given in the final rejection.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates that the petition should be properly dismissed as untimely under 37 CFR 1.181(f), which states that any petition not filed within two months of the mailing date of the action or notice from which relief is requested, may be dismissed as untimely. This application was statutorily abandoned on April 12, 2008. Applicant failed to timely file a proper reply to the Office action mailed January 11, 2008, within the meaning of 37 CFR 1.113(a). Petitioner's acknowledgement of PTA adjustments has no bearing on the requirement of 37 CFR 1.181(f) to promptly file; consideration of a terminal disclaimer hare would not be an issue, given the filing date of the application. Here there is no requirement for a Terminal Disclaimer.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
>
> (2) The petition fee as set forth in 37 CFR 1.17(m);
>
> (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the petition fee.

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

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

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

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

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

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA INC
600 NORTH US HIGHWAY 45
W4 - 39Q
LIBERTYVILLE, IL 60048-5343

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JUN 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Taylor et al.	:	
Application No. 10/797,379	:	DECISION ON PETITION
Filed: March 10, 2004	:	
Attorney Docket No. CS23811RL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 4, 2010, as required by the Notice of Allowance and Fee(s) Due mailed November 4, 2009. Accordingly, the application became abandoned on February 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

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

Carl Friedman
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

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AUG 0 5 2008

Mr. Eric Chan
42 Pin Oaks Drive
Phoenixville, PA 19460

In re Application of :
Kwok Ping Wong :
Application No. 10/797,420 : DECISION ON PETITION
Filed: March 6, 2007 :
Attorney Docket No. 4821 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 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 January 11, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) 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 3742 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.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: George Christopher Dobrin	: DECISION ON REQUEST FOR
Patent Number	: 7581273	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/797,423	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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

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MARSHALL & MELHORN
FOUR SEAGATE, EIGHT FLOOR
TOLEDO OH 43604

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AUG 0 4 2004

OFFICE OF PETITIONS

In re Application of
Michael P. Remington et al.
Application No. 10/797,426
Filed: March 10, 2004

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed July 7, 2004, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of March 10, 2004.

The application was filed on March 10, 2004, without drawings.[1] Accordingly, on May 26, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on July 7, 2004, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented Petitioners request that the application, without drawings, be accorded a filing date of March 10, 2004.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed May 26, 2004, is hereby withdrawn. The application is accorded a filing date of March 10, 2004, without drawings.

---

[1] 35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

[2] MPEP 601.01(f).

The petition is granted. The petition fee in the amount of $130.00 has been credited back to deposit account no.13-1816.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 10, 2004, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/797,444	03/09/2004	3637	770	448204/0088	5	15	2

CONFIRMATION NO. 4446

Steven B. Pokotilow, Esq.
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038

CORRECTED FILING RECEIPT

OC000000013710735

Date Mailed: 09/03/2004

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)

Jaime Rojas, Miami, FL;
Robin Neary, Warren, NJ;

Power of Attorney:

Lawrence Rosenthal--24377
Steven Pokotilow--26405
David L. Schaeffer--32716
Matthew W. Siegal--32941
James DeCarlo--36120
Ian Di Bernardo--40991

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/458,120 03/26/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/26/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/797,444

Projected Publication Date: 09/30/2004

Non-Publication Request: No

Early Publication Request: No

Title

Fiberboard pallet

Preliminary Class

108

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

GRANTED

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

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

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

NOT GRANTED

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

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WARN, HOFFMANN, MILLER
& LALONE, P.C.
PO BOX 70098
ROCHESTER HILLS, MI 48307

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JUL 18 2007

OFFICE OF PETITIONS

In re Application of :
Joseph BLISS :
Application No. 10/797,448 : DECISION ON PETITION
Filed: March 10, 2004 : TO WITHDRAW

Attorney Docket No. 1SUP-00001 : 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 4, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by customer number.

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

There is an outstanding Office action mailed March 20, 2007 that requires a reply by the applicant.

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

April Wise
Petitions Examiner
Office of Petitions

cc: SUPERIOR CAM, INC.
31240 STEPHENSON HIGHWAY
MADISON HEIGHTS, MI 32775

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OFFICE OF PETITIONS

WARN, BURGESS & HOFFMANN, P.C.
P.O. BOX 70098
ROCHESTER HILLS, MI 48307

In re Application of
Joseph BLISS
Application No. 10/797,448
Filed: March 10, 2004
Attorney Docket No. SUP-00001

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 8, 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 Philip R. Warn on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

All future communications from the Office will be directed to the assignee at the address indicated below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SUPERIOR CAM, INC.
31240 STEPHENSON HIGHWAY
MADISON HEIGHTS, MI 48071

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/797,448	03/10/2004	Joseph Bliss	SUP-00001

CONFIRMATION NO. 4424

Warn, Burgess & Hoffmann, P.C.
P.O. Box 70098
Rochester Hills, MI 48307

POWER OF ATTORNEY NOTICE

OC000000026843680

Date Mailed: 11/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

- 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.

/dcgoodwyn/

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

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Paper No.

MARSHALL & MELHORN
FOUR SEAGATE, EIGHT FLOOR
TOLEDO, OH 43604

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JUL 26 2004

OFFICE OF PETITIONS

In re Application of	:	
Remington et al.	:	
Application No. 10/797,450	:	DECISION ON PETITION
Filed: March 10, 2004	:	
Attorney Docket No. 1-16235	:	

This is a decision on the "PETITION UNDER § 1.181," filed July 7, 2004, which is properly treated as a petition under § 1.53(e)(2). Applicants request that the above-identified nonprovisional application be accorded a filing date of March 10, 2004, with no drawings present in the application.

The petition is **GRANTED**.

Application papers in the above-identified nonprovisional application were deposited on March 10, 2004. However, on May 27, 2004, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited March 10, 2004 had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition. Applicants seek assignment of the filing date of the originally submitted application, namely March 10, 2004, on the basis that the inadvertently omitted drawings are not necessary for understanding the subject matter sought to be patented. Applicants state that all of the claims of the present application are method claims related to thin film deposition.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 111(a)(4) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

In regards to withdrawing the Notice, MPEP § 601.01(f) also states that:

> a nonprovisional application having at least one claim ..., directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

A review of the application confirms that as filed it contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

However, as the specification in the instant nonprovisional application contained reference to drawing figures 1 through 4 (Brief Description of Drawings, p. 3 of Specification), mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." The "Notice of Incomplete Nonprovisional Application" mailed May 27, 2004, was mailed in error and is hereby **withdrawn**.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of March 10, 2004.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 13-1816, as authorized.

CONCLUSION

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has

been referred to OIPE for further processing **with a filing date of March 10, 2004** and for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Pharmacia Corporation
Corporate Patent Department
P.O. Box 1027
Chesterfield MO 63006

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OFFICE OF PETITIONS

In re Application of	:	
Lyle Brostrom et al	:	
Application No. 10/797,462	:	DECISION ON PETITION
Filed: March 10, 2004	:	
Attorney Docket No. 3300/B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 2, 2006. A Notice of Abandonment was mailed on February 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of August 1, 2006 is accepted as being unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on April 18, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 1621 for appropriate action in the normal course of business on the reply received April 18, 2007.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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DARDI & HERBERT, PLLC
220 S. 6TH ST.
SUITE 2000, U.S. BANK PLAZA
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: John G. Stark	: DECISION ON REQUEST FOR
Patent Number	: 7648509	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/797,481	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **359** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/06/2010

Applicant	: Denise M. Demarais	: DECISION ON REQUEST FOR
Patent Number	: 7655016	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/797,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1665** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FROM DIRECTORS OFFICE

MAY 06 2005

TECHNOLOGY CENTER 3600

WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond, Suite 1100
Houston, TX 77042

In re application of
Mark A. Turner
Application No. 10/797,489 : **DECISION ON REQUEST**
Filed: March 10, 2004 : **FOR WITHDRAWAL OF**
For: APPARATUS AND METHOD FOR ACTUATING CONTROL SURFACES : **ATTORNEY**

This is a decision on the request filed on March 29, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks a reason for the withdrawal under conditions A) and B) above.

As to condition A), the attorneys listed in the request (Customer Number 23720) do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. The original Power of Attorney appointed several attorneys. Of these attorneys, Stephen S. Sadacca, Scott F. Diring, Shelley P.M. Fussey, Mark D. Moore, and Stephanie A. Wardwell are not associated with Customer No. 23720. The reference to a customer number appears to not include all the attorneys of record. If less than all the attorneys wish to withdraw and a portion of the originally listed attorneys wish to retain power, any renewed request must so state, otherwise the person signing must be signing on behalf of all the attorneys of record.

As to condition B), the reason "this application is being transferred to another attorney or agent of record", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

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

SNM/pav: 04/28/05

OIPE JC106 OCT 04 2004 PATENT & TRADEMARK OFFICE

LFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Virgil E. Stanley III

Serial Number: 10/797,490

Filed: 10 March 2004

Title: **Artificial Christmas Tree**

Attorney's Docket No: 4486-096

Patent Pending

Group Art Unit: 1743

Cary, North Carolina
30 September 2004

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

PETITION TO MAKE SPECIAL UNDER RULE 1.102(d)

Applicant hereby petitions that the above reference patent application be granted special status pursuant to 37 C.F.R. 1.102(d) and Section 708.02 of the MPEP. A Preliminary Amendment accompanies this Petition. Applicant consents to the special examination procedure set forth in Section 708.02 of the MPEP. In support of this petition, Applicant submits the Declaration of Larry L. Coats and the fees set forth in 37 C.F.R. §1.17(h). Applicant will make an election without traverse if the Patent office should determine that a restriction requirement should be made. Accordingly, Applicant requests that this Petition to Make Special be granted and that the application undergo accelerated examination.

10/05/2004 EAREGAY1 00000004 10797490
01 FC:1460 130.00 OP

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
APR 1 1 2006

OIPE JC106
OCT 04 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Virgil E. Stanley III

Serial Number: 10/797,490

Filed: 10 March 2004

Title: **Artificial Christmas Tree**

Attorney's Docket No: 4486-096

Patent Pending

Group Art Unit: 1743

Cary, North Carolina
30 September 2004

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

PETITION TO MAKE SPECIAL UNDER RULE 1.102(d)

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10/05/2004 EAREGAY1 00000004 10797490
01 FC:1460 130.00 OP

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
APR 18 2006

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PETITION DECISION

05/11/04

Leffert Jay & Polglaze, P.A.
Tod A. Myrum
P.O. Box 581009
Minneapolis, MN 55458-1009

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/797495 received on 04/08/04 by the U. S. Patent and Trademark Office will be included for patent publication.

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

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Naroff, et al. :
Application No. 10/797,515 : DECISION ON PETITION
Filed: March 10, 2004 :
Attorney Docket No. 772.025US1 :

This is a decision on the petition, filed February 24, 2009 (certificate of mailing date February 20, 2009), under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed July 22, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 2, 2009.

Petitioner asserts that the Office action dated July 22, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the February 2, 2009 Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2191 for re-mailing the Office action of July 22, 2008. The period for reply will run from the mailing date of the Office action.

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

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Woodard, Emhardt, Moriarty, McNett & Henry LLP
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of	:
Slater, et al.	: DECISION GRANTING STATUS
Application No. 10/797,522	: UNDER 37 CFR 1.47(a)
Filed: March 10, 2004	:
Atty. Dkt. No.: 8222-53	:
For: METHODS AND SYSTEMS OF	:
DIAGNOSING FUEL INJECTION	:
SYSTEM ERROR	:

This decision is in response to the petition under 37 CFR 1.47(a), filed August 30, 2004.

The petition is **GRANTED**.

Petitioner has shown that inventor John E. Rogers has refused to execute the declaration for the above-identified application after having been presented with the application papers.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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John E. Rogers
2605 West County Road 1000 North
Westport, Indiana 47283

In re Application of :
Slater, et al. :
Application No. 10/797,522 : LETTER
Filed: March 10, 2004 :
Docket No.: 8222-53 :
For: METHODS AND SYSTEMS OF :
DIAGNOSING FUEL INJECTION :
SYSTEM ERROR :

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OFFICE OF PETITIONS

Dear Sir:

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

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

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

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

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Petteri Poyhonen	: DECISION ON REQUEST FOR
Patent Number	: 7599374	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/797,529	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1514** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

Applicant : Petteri Poyhonen
Patent Number : 7599374
Issue Date : 10/06/2009
Application No: 10/797,529
Filed : 03/10/2004

: 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 **1549** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

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LEON I. EDELSON, ESQ.
LEVENFELD PEARLSTEIN
P.O. BOX 0212
CHICAGO IL 60690-0212

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FEB 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Jaynes, Dennis E.	:	
Application No. 10/797,534	:	ON PETITION
Filed: March 10, 2004	:	
Attorney Docket No. 31294-49716	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to the Publishing Division.

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

Liana Chase
Petitions Examiner
Office of Petitions

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Joseph W Berenato III
Liniak, Berenato & White, LLC
Suite 240
6550 Rock Spring Drive
Bethesda MD 20817

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DEC 17 2008

In re Application of :
Walsh :
Application No. 10/797,572 : ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 16240.M293 :
For: METHOD OF FORMING A MOLDED PLYWOOD DOOR SKIN, MOLDED PLYWOOD DOOR SKIN, AND DOOR MANUFACTURED THEREWITH

This is a decision on the petition entitled, "PETITION FOR WITHDRAWAL OF NOTICE OF ABANDONMENT UNDER 37 CFR 1.181 OR, IN THE ALTERNATI, PETITION FOR REVIVAL UNDER 37 C.F.R. 1.137(b)," filed November 7, 2008.

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

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

Pursuant to petitioner's authorization, deposit account no. 50-0548 will be charged the required $810.00 Rule 137(b) petition to revive fee.

This application became abandoned for failure to timely respond to the final Office action mailed February 27, 2008, which set an extendable three month period for reply. Having received no extensions of time under 37 CFR 1.136(a) and no reply, this application became abandoned on May 28, 2008. A Notice of Abandonment was mailed on October 1, 2008.

Petitioner alleges that the February 27, 2008 final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

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

2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the February 27, 2008 final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has not provided adequate evidence of non-receipt. The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Applicant has submitted a RCE and required fee and amendment in reply to the February 27, 2008 final Office action, a proper statement of the unintentional nature of the delay in responding to the February 27, 2008 final Office action, and the petition fee.

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

After the mailing of this decision, the application will be referred to Technology Center A.U. 3635 for consideration of the RCE and amendment filed on November 7, 2008.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

In re Application of :
Beck, et al. :
Application No. 10/797,581 : LETTER REGARDING
Filed: March 10, 2004 : PATENT TERM ADJUSTMENT
Docket No. 3591-1377 :

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed October 30, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

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 **34 days**. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 30, 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 is 62 days. On October 30, 2009, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated. 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 62 days is incorrect.

A review of the PTA calculations for the application reveals that after applicants filed a reply on May 7, 2009 to a non-final Office action, that applicants submitted a supplemental reply or paper in the form of an Information Disclosure Statement (IDS) on June 4, 2009. The record does not support a conclusion that the examiner expressly requested the filing of the IDS. Further, a review of the IDS, filed June 4, 2009, reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 28 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, May 8, 2009, and ending on the date that the IDS was filed, June 4, 2009. Accordingly, a period of reduction of 28 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **34 days** (155 days of Office delay - 121 days of applicant delay).

As this letter was submitted to advise the Office of an error in applicants' favor, no fee under 37 CFR 1.18(e) is required. The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

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

Telephone inquiries specific to this decision should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PTA Calculations for Application: 10/797581			
Application Filing Date:	03/10/2004	PTO Delay (PTO):	155
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	93
Post-Issue Petitions:	0	Total PTA (days):	34
PTO Delay Adjustment:	-28		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
92	02/26/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		28	
85	09/04/2009	MAIL NOTICE OF ALLOWANCE			
84	06/04/2009	REFERENCE CAPTURE ON IDS			
83	06/04/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
78	07/29/2009	ISSUE REVISION COMPLETED			
77	07/29/2009	DOCUMENT VERIFICATION			
76	07/29/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	06/22/2009	NOTICE OF ALLOWABILITY			
73	06/04/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
67	05/07/2009	NEW OR ADDITIONAL DRAWING FILED			
66	06/08/2009	DATE FORWARDED TO EXAMINER			
65	05/07/2009	RESPONSE AFTER NON-FINAL ACTION		24	61
64	05/07/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
63	06/04/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
61	01/13/2009	MAIL NON-FINAL REJECTION			
60	12/22/2008	NON-FINAL REJECTION			
59	10/23/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	10/23/2008	REFERENCE CAPTURE ON IDS			
57	10/23/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		24	53
55	10/23/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

54	10/20/2008	DATE FORWARDED TO EXAMINER			
53	09/29/2008	RESPONSE AFTER NON-FINAL ACTION		2	52
52	06/27/2008	MAIL NON-FINAL REJECTION			
51	06/23/2008	NON-FINAL REJECTION			
50	02/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
49	02/28/2008	REFERENCE CAPTURE ON IDS			
48	02/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	46
47	04/07/2008	DATE FORWARDED TO EXAMINER			
46	02/28/2008	RESPONSE AFTER NON-FINAL ACTION			
45	02/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	11/28/2007	MAIL NON-FINAL REJECTION			
43	11/26/2007	NON-FINAL REJECTION			
42	09/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	09/20/2007	DATE FORWARDED TO EXAMINER			
40	09/13/2007	RESPONSE AFTER NON-FINAL ACTION		9	35
39	09/13/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	09/13/2007	REFERENCE CAPTURE ON IDS			
37	09/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	09/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	06/04/2007	MAIL NON-FINAL REJECTION	44		29
34	05/29/2007	NON-FINAL REJECTION			
33	12/21/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32.7	12/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	29
32	12/21/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	12/21/2006	RULE 47 / 48 CORRECTION OF INVENTORSHIP PAPERS FILED			
30	03/26/2007	DATE FORWARDED TO EXAMINER			
29	12/21/2006	RESPONSE AFTER NON-FINAL ACTION		27	27
28	12/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

27	08/24/2006	MAIL NON-FINAL REJECTION			
26	08/21/2006	NON-FINAL REJECTION			
25	06/08/2006	DATE FORWARDED TO EXAMINER			
24	06/05/2006	RESPONSE AFTER NON-FINAL ACTION		4	23
23	03/01/2006	MAIL NON-FINAL REJECTION			
22	02/21/2006	NON-FINAL REJECTION			
21	12/08/2005	DATE FORWARDED TO EXAMINER			
20	12/02/2005	RESPONSE AFTER NON-FINAL ACTION		3	19
19	08/29/2005	MAIL NON-FINAL REJECTION	111		-1
18	08/22/2005	NON-FINAL REJECTION			
17	08/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	05/13/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	10/14/2004	CASE DOCKETED TO EXAMINER IN GAU			
14	10/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	08/09/2004	REFERENCE CAPTURE ON IDS			
12.7	08/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	08/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	09/15/2004	APPLICATION RETURN FROM OIPE			
10	09/15/2004	APPLICATION RETURN TO OIPE			
9	09/15/2004	APPLICATION DISPATCHED FROM OIPE			
8	09/15/2004	APPLICATION IS NOW COMPLETE			
7	07/30/2004	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	07/30/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	05/27/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/07/2004	CLEARED BY OIPE CSR			
3	04/07/2004	CASE CLASSIFIED BY OIPE			
2	03/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/10/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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

In re Application of	:	
Kapur, et. al.	:	DECISION ON REQUEST
Application No. 10/797,586	:	TO WITHDRAW FROM
Filed: March 9, 2004	:	RECORD
Attorney Docket No. 017887-012300US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed on August 22, 2005.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Customer Number 20350 have been revoked by the assignee of the patent application, on February 10, 2006. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER, LLP
900 THIRD AVENUE
NEW YORK, NY 10022

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/797,586	03/09/2004	Shyam Kapur	017887-012300US

CONFIRMATION NO. 4711

OC000000019805799

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 07/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2006.

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

AM Smith

ANDREA M SMITH
OP (571) 272-3226

FORMER ATTORNEY/AGENT COPY

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

Mail Date: 04/21/2010

Applicant	: Toshimitsu Hirai	: DECISION ON REQUEST FOR
Patent Number	: 7582333	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/797,591	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of :
Ingvar Sjoqvist :
Application No. 10/797,598 : ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 19200-00033/US :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 17, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper response to the non-final Office action mailed September 19, 2007. This Office action set a shortened period for reply of three (3) months. A Notice of Abandonment was mailed on June 12, 2008.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a postcard receipt dated January 22, 2008, identifying the above application and itemizing an Amendment and a check for $120.

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.

As January 19, 2008 fell on a Saturday and January 21, 2008 fell on a federal holiday, petitioner's filing of the Amendment and one month extension of time on January 22, 2008 was timely.

Furthermore, a review of Office records reveals that the Office received the fee for the one month extension of time on January 22, 2008.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The application is being forwarded to Group Art Unit 2615 for consideration of the Amendment filed January 22, 2008, a copy of which has been supplied with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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October 2, 2006

ARENT FOX, PLLC
1050 Connecticut Avenue
Suite 400
Washington, DC 20036-5339

Patent No.: 7040440 B2
Application No.: 10/797611
Inventor(s): Kurite, et al.
Issued: May 9, 2006
Title: **ELECTRIC ASSISTED BICYCLE**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(703) 872-9306 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of :
Kurita et al. :
Application No. 10/797611 :
Filing or 371(c) Date: 03/11/2004 :
Patent No.: 7040440 :
Issue Date: 05/09/2006 :
Attorney Docket No. :
100725-00121 :

This is a decision on the "Petition to Accept Request for Certificate of Correction", filed August 21, 2006. The petition is properly treated under 37 CFR 3.81(b)[1], to change the name of the assignee after payment of the issue fee. The delay in treating this petition is regretted.

The Petition is **granted**.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The application is being referred to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Derek L. Woods
Attorney
Office of Petitions

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

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OFFICE OF PETITIONS

In re Application of	:	
Kapur et al.	:	DECISION ON PETITION
Application No. 10/797,614	:	TO WITHDRAW
Filed: March 9, 2004	:	FROM RECORD
Attorney Docket No. 600189-385	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2005.

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

A review of the file record indicates that on December 29, 2005 the power of attorney to Townsend and Townsend and Crew, LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: YAHOO! INC.
C/O Ostrow Kaufman & Frankl LLP
The Chrysler Building
405 Lexington Avenue, 62nd Floor
New York NY 10174

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Law Office of Scott C Harris Inc
PO Box 1389
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OFFICE OF PETITIONS

In re Application of :
Surampudi et al. :
Application No. 10/797625 : DECISION
Filing or 371(c) Date: 03/09/2004 : ON PETITION
Attorney Docket Number: 06816-023009 :

This is a decision on the "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed June 10, 2008, to revive the above-identified application.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed October 3, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned January 4, 2008.

Applicant files the present petition and issue and publication fees; however, the it is noted that the petition fee has been paid in the small entity amount ($770.00), while the issue fee has been paid in the large entity amount.

A Grantable Petition Under 37 CFR 1.137(b)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director

may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (2), Petitioner should clarify whether the application status has changed to a small entity. Office records reveal California Institute of Technology as the assignee of the present application.

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

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

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In re Application of	:	
Surampudi et al.	:	
Application No. 10/797625	:	DECISION
Filing or 371(c) Date: 03/09/2004	:	ON PETITION
Attorney Docket Number: 06816-023009	:	

This is a decision on the renewed "Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed September 29, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed October 3, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned January 4, 2008.

Applicant files the present renewed petition and the balance of the issue fee. 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 the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

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

In re Application of: TOMITA
Application No. 10/797,650
Filed: March 9, 2004
For: DATA I/O SYSTEM USING A PLURALITY OF MIRROR VOLUMES

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

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OFFICE OF PETITIONS

In re Application of :
Ashish M. Sukhadia, et. al. :
Application No. 10/797,673 : DECISION ON PETITIONS
Filed: March 10, 2004 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. :
CPCM:0046/FLE/FAR/STA 210 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) filed June 30, 2008, which is being treated as 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 Director may require additional information where there is a question whether the delay was unintentional.

Additionally, intermediate nonprovisional application No. 09/639,836 filed August 16, 2000[1] was filed within twelve months of provisional Application No. 60/174,044, which was filed on December 30, 1999, for which priority is claimed. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title.

All the above requirements having been satisfied, the late claim for 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.

This application is being forwarded to Technology Center Art Unit 1796, 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

[1] It is noted that the status of Application Nos. 10/672,785, 09/639,836 and 10/755,083, i.e. if it is patented or abandoned, was not included in the specification.

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
10/797,673	03/10/2004	1796	1950	CPCM:0046/FLE/FAR/STA 210	45	3

CONFIRMATION NO. 4144

47514
FLETCHER YODER (CHEVRON PHILLIPS)
P. O. BOX 692289
HOUSTON, TX 77069

CORRECTED FILING RECEIPT

OC000000031268294

Date Mailed: 07/30/2008

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)

Ashish M. Sukhadia, Bartlesville, OK;
Jerry D. Stark, Bartlesville, OK;
Max P. McDaniel, Bartlesville, OK;
Elizabeth A. Benham, Spring, TX;
Michael D. Jensen, Bartlesville, OK;
Joel L. Martin, Bartlesville, OK;
Rajendra K. Krishnaswamy, Bartlesville, OK;

Power of Attorney: The patent practitioners associated with Customer Number 47514

Domestic Priority data as claimed by applicant

This application is a CIP of 10/672,785 09/26/2003 PAT 7,109,277
which is a DIV of 09/639,836 08/16/2000 PAT 6,667,274
which claims benefit of 60/174,044 12/30/1999
This application 10/797,673
is a CIP of 10/755,083 01/09/2004 PAT 7,041,617

Foreign Applications

If Required, Foreign Filing License Granted: 05/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/797,673**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Ethylene polymers and copolymers with high optical opacity and methods of making the same

Preliminary Class

526

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

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CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

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OCT 2 1 2009

OFFICE OF PETITIONS

In re Application of :
Ziv Haparnas :
Application No. 10/797,695 : DECISION ON PETITION
Filed: March 10, 2004 : TO WITHDRAW
Attorney Docket No. 1005-09-01 USP : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2009.

The request is **NOT APPROVED**.

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

The request cannot be approved because practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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

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

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/797,705	03/09/2004	1614	770	AM101338		19	1

CONFIRMATION NO. 4219

CORRECTED FILING RECEIPT

OC000000013995354

25291
WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

Date Mailed: 10/05/2004

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)

Keun-sik Kim, Suncheon-si, KOREA, REPUBLIC OF;
Kwang-Il Kim, Yeosu-si, KOREA, REPUBLIC OF;
Ki-Byung Chai, Yeosu-si, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

Wyeth, Madison, NJ

Power of Attorney: The patent practitioners associated with Customer Number **25291**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/453,583 03/11/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/26/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/797,705

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Process for preparation of phenethylamine derivatives

Preliminary Class

514

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

GRANTED

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

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

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

NOT GRANTED

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

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

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OFFICE OF PETITIONS

In re Application of :
OSAKABE et al. :
Application No. 10/797,710 : DECISION ON PETITION
Filed: 03/10/2004 :
Attorney Docket No. 2552-000063 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 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 April 1, 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 July 2, 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, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2627 for appropriate action by the Examiner in the normal course of business on the reply received on October 3, 2008.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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July 18, 2007

Patent No. : 7190462 B2
Ser. No. : 10/797731
Inventor(s) : Ohno, et al.
Issued : March 13, 2007
Title : **FIBER OTIC GYROSCOPE HAVING OPTICAL INTEGRATED CIRCUIT, DEPOLARIZER AND FIBER OPTIC COIL**
Docket No. : KPO195

Re: Request for Certificate of Correction

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

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

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

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

By Mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (703) 308-6916
Attn: Office of Petitions

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

GALLAGHER & LATHROP, A PROFESSIONAL CORPORATION
601 CALIFORNIA ST
SUITE 1111
SAN FRANCISCO CA 94108

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PRESTON GATES & ELLIS
1900 MAIN STREET, SUITE 600
IRVINE CA 92614-7819

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MAY 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Roger A. Acey et al :
Application No. 10/797,748 : ON PETITION
Filed: March 9, 2004 :
Attorney Docket No. 51302-00002 :

This is a decision on the petition, filed April 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1653 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/5/07

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 7135605

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

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

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

Kathleen K Bragdon 1656

KATHLEEN KERR BRAGDON, PH.D.
SUPERVISORY PATENT EXAMINER
SPE Art Unit

19 JUN 2008

UNITED STATES 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 M. Carter
Carter, DeLuca, Farrell & Schmidt, LLP
Suite 225
445 Broad Hollow Road
Melville NY 11747

In re Application of :
Plant, David James :
Application No.: 10/797,756 :
Filed: March 10, 2004 : DECISION ON PETITION
Attorney Docket No.: 1315-22 :
For: FLEXIBLE ENERGY ABSORBING :
MATERIAL AND METHODS OF :
MANUFACTURE THEREOF

This is a decision on the petitions under 37 CFR 1.55(c) and 1.78(a)(3), filed June 21, 2007 to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed international applications set forth in the amendment filed concurrently with the instant petition.

Petition under 37 CFR 1.78(a)(3)

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

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

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

information where there is a question whether the delay was unintentional.

The petition does not comply with item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. The amendment submitted with the present petition indicates that "the present application is a continuation application which claims the benefit of and priority to International Application no. PCT/GB02/04209 filed on September 13, 2002. . ." As the amendment was submitted under the provision of 37 CFR 1.116, entry of the amendment is decided by the examiner. However, even if the amendment was entered, the petition could not be granted. While the amendment identifies the instant application as a continuation application, it does not identify which application it is a continuation of. As such, the reference fails to comply with 37 CFR 1.78(a)(2). An example of a proper benefit claim is: "This application is a continuation of International Application No. PCT/GB02/04209, filed September 13, 2002. . ." See MPEP Section 201.11, Reference to Prior Application.

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

Petition under 37 CFR 1.55(c)

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

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

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

was unintentional); and

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

Item (5) has not been satisfied. The above-identified nonprovisional application was filed on March 10, 2004, which is after November 29, 2000, but not within the 12 months of September 13, 2001 or October 4, 2001, the filing date of the foreign application to which benefit is now being claimed. Until the necessary corrections have been made under 37 CFR 1.78, the petition under 37 CFR 1.55 cannot be granted.

Therefore, the Petition under 37 CFR 1.55(c) is **DISMISSED** without prejudice.

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

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

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

By fax:
(571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

This matter is being referred to Technology Center 1717 for any further processing, as deemed necessary in light of this decision.

Boris Milef
PCT Legal Examiner
PCT Legal Administration

12 JAN 2009

UNITED STATES 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 M. Carter
Carter, DeLuca, Farrell & Schmidt, LLP
Suite 225
445 Broad Hollow Road
Melville NY 11747

In re Application of Plant, David James Application No.: 10/797,756 Filed: March 10, 2004 Attorney Docket No.: 1315-22 For: FLEXIBLE ENERGY ABSORBING MATERIAL AND METHODS OF MANUFACTURE THEREOF	:	DECISION ON PETITION FOR REVIVAL OF ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2008, to revive the above-entitled application. The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 19, 2007, which set a shortened period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained and an Notice of Appeal was not filed. Accordingly, by operation of law, the above-identified application became abandoned on July 19, 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of November 13, 2006 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1717. Telephone inquiries concerning this decision should be directed to the undersigned.

Anthony Smith
Attorney-Advisor
Office of Petitions/Office of PCT Legal Administration
Telephone: (571) 272-3298

12 JAN 2009

UNITED STATES 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 M. Carter
Carter, DeLuca, Farrell & Schmidt, LLP
Suite 225
445 Broad Hollow Road
Melville NY 11747

In re Application of
Plant, David James
Application No.: 10/797,756
Filed: March 10, 2004
Attorney Docket No.: 1315-22
For: FLEXIBLE ENERGY ABSORBING MATERIAL AND METHODS OF MANUFACTURE THEREOF:

DECISION ON PETITION UNDER 37 CFR 1.78(a)(3) 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 September 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of a prior-filed PCT application, and under 35 U.S.C. § 119(a)-(d) for the priority to prior-filed foreign applications, as set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of the prior-filed PCT application and priority to the foreign applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.55(a)(1). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.55(c).

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 Director may require additional information where there is a question

whether the delay was unintentional.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**

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

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

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

The above-identified pending nonprovisional application was filed on March 10, 2004, which is after November 29, 2000, and the intermediate PCT application was filed within 12 months of 13 September 2001, which is the earliest filing date of the foreign application to which benefit is claimed. An Application Data Sheet filed on January 29, 2007 also identifies the foreign application for which priority is claimed by application number, country and filing date. The surcharge as set forth in 37 CFR 1.17(t) has been paid. Lastly, petitioner has provided an

adequate statement of unintentional delay.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT and foreign applications, 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 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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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 this application is entitled to the benefit of the earlier filing date.

Any inquiries concerning this decision may be directed to Anthony Smith at (571) 272-3298. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1717 for consideration by the examiner of applicant's entitlement to claim benefit of priority to the prior-filed applications.

Boris Milef
PCT Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

Mail Date: 04/20/2010

Applicant	: Daniel James Plant	: DECISION ON REQUEST FOR
Patent Number	: 7608314	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/797,756	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **152** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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MAY 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Gary William Schukar et al	:	
Application No. 10/797,758	:	DECISION ON PETITION
Filed: March 9, 2004	:	
Attorney Docket No. 57630US004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 31, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 1, 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 Notice of Appeal; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3729 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Carl Friedman
Petitions Examiner
Office of Petitions

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JUL 2 8 2006

OFFICE OF PETITIONS

ANTOINETTE M. TEASE
P.O. BOX 51016
BILLINGS MT 59105

In re Application of :
Michael D. Ruminer et al :
Application No. 10/797,763 : DECISION ON PETITION
Filed: March 10, 2004 : TO WITHDRAW
Attorney Docket No.: RUM04-0001 : 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 27, 2005.

The request is **APPROVED**.

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

The request was signed by Antoinette M. Tease.

Antoinette M. Tease has been withdrawn.

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

All future correspondence will be directed to the address indicated below.

This application is being referred to Technology Center AU 2192.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee:

cc:
MICHAEL D. RUMINER
340 WASHINGTON ST.
NORWELL MA 02061

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

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 04/23/2010

Applicant	: Mark Ammar Rayes	: DECISION ON REQUEST FOR
Patent Number	: 7607021	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/797,773	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **890** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 05/18/2010

Applicant : Mark Ammar Rayes
Patent Number : 7607021
Issue Date : 10/20/2009
Application No: 10/797,773
Filed : 03/09/2004

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

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

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

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

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Carlos R. Plata-Salaman et al. :
Application No. 10/797,795 : ON PETITION
Filed: March 10, 2004 :
Attorney Docket No. **ORT-1575CON** :

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 10, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 11, 2006.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,160 extension of time fee submitted with the petition on March 2, 2007 was subsequent to the maximum extendable period for reply. The $2,160 extension of time fee will be deposited back to petitioner's deposit account.

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

The application file is being referred to Technology Center AU 1614 for appropriate action on the concurrently filed election.

Liana Walsh
Petitions Examiner
Office of Petitions

Docket No.: **ORT 1575USCNT**
EFS Filing: March 2, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Applicant(s):	Carlos R. Plata-Salaman et al.	Confirmation No.:	4508
Application No.:	10/797,795	Group Art:	1614
Filing Date:	March 10, 2004	Examiner:	Michel Graffeo

Title: CARBAMATE COMPOUNDS FOR USE IN PREVENTING OR TREATING NEURODEGENERATIVE DISORDERS

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

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

The above-identified application became abandoned for unintentional failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANTS HEREBY PETITION FOR REVIVAL OF THIS APPLICTION

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.

Adjustment date: 02/27/2008 CKHLOK
03/05/2007 INTEFSW 00000256 100750 10797795
02 FC:1255 2160.00 CR

1. Petition fee

☐ Small entity fee $_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity fee $1,500 (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 a RESPONSE TO RESTRICTION REQUIREMENT (identify type of reply):

☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee of $_____

☐ has been paid previously on _____
☐ is enclosed herewith.

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 small entity or $ for other than a small entity disclaiming the required period of time is enclosed herewith (See PTO/SB/63).

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)).]

Fee payment:

☒ Charge the petition fee of $1,500.00 to Account 10-0750/ORT1575USCNT/PLH and for any additional fee required.

☐ A check in the sum of $_____ is attached.

☒ Charge Account 10-0750/ ORT1575USCNT/PLH for any additional fee required.

Respectfully submitted:

_/Peter L Herridge/
PETER L. HERRIDGE
Reg. No.: 42,658
Attorney for Applicant(s)

JOHNSON & JOHNSON
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
Tel. No.: (732) 524-5352
Date: March 2, 2007
EPM

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional Sheets containing statements establishing unintentional delay

☐ Other: _____

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 01/08/08

2 Serial/Patent #: 10/797,795

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		03/02/07	$ 2,160.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $2,160.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 Credit Deposit A/C #: 10--0750

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

No extension needed, case was already abandoned.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

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APPROVED: DATE: 2/27/08

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

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

SEP 20 2004

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

In re Application of :
Gregory W. Ritter *et al* :
Application No. 10/797,803 : DECISION ON PETITION
Filed: March 10, 2004 :
Attorney Docket No. 50118-00001 :

This is a decision on the petition to make special filed on March 10, 2004. The petition is based upon the practice described in MPEP § 708.02(V) "Environmental Quality." Therefore, no petition fee is required.

The petition is granted.

The petition to make special based upon the practice in the above mentioned MPEP section is deemed to satisfy all of the requirements thereof. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3747 is being informed of this decision, and will advise the examiner to take future action consistent therewith.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner
Technology Center 3700

Marsh, Fischmann & Breyfogle, LLP
3151 South Vaughn Way
Suite 411
Aurora, CO 80014

UNITED STATES PATENT AND TRADEMARK OFFICE

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TECHNOLOGY CENTER 3600

Eric Fincham
316 Knowlton Road
Lac Brome QC J0E 1V0 CA CANADA

In re application of :
Gilles Dumont :
Application No. 10/797,806 :
Filed: March 10, 2004 :

DECISION ON PETITION
TO RESET A
TIME PERIOD

For: ROTARY PLANT GROWING APPARATUS

This is in reply to the Petition to Reset Time Period, received in the Patent and Trademark Office on August 05, 2005. There is no fee required for this petition.

The petition is **GRANTED.**

A Restriction Requirement was mailed on June 28, 2005, setting forth a one-month response period. Petitioner states that the above Office communication was not received until July 25, 2005.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within two weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

The petition meets all of the above requirements as the petition was filed within two weeks of the date of receipt of the Office communication, a substantial portion of the reply period had elapsed and evidence in the form of the USPTO

envelope having a July 24, 2005 date stamped along the top portion thereof has been provided.

The time period set in the Restriction requirement is therefore reset to run one-month from the postmark date of July 24, 2005. Therefore, the response filed August 10, 2005 is timely and will be forwarded to the examiner for prompt consideration.

SUMMARY: The Petition to Reset Time Period is **GRANTED**.

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

KJD/rjc: 10/26/05

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JUN - 3 2004

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

In re Application of	:
Albert B. Crum	:
Serial No.: 10/797,813	: PETITION TO MAKE SPECIAL
Filed: March 10, 2004	:
Attorney Docket No.: 2417-1-012	:

This is in response to applicants' petition filed March 10, 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

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Alexandria, VA 22313-1450
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CATHERINE POLIZZI
MORRISON AND FOERSTER, LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304

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JUL 09 2007

OFFICE OF PETITIONS

In re Application of :
Fredrick O. Cope :
Application No. 10/797,850 : DECISION ON PETITION
Filed: March 10, 2004 : TO WITHDRAW
Attorney Docket No. HYG 1194-019B : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed November 20, 2006 and November 27, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Morrison and Foerster does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc:

STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

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BRUZGA & ASSOCIATES
11 BROADWAY, SUITE 715
NEW YORK, NY 10004

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SEP 28 2006
OFFICE OF PETITIONS

In re Application of

Frankiewicz, et al. :

Application No. 10/797,859

: DECISION ON PETITION

Filed: March 10, 2004

:

Attorney Docket No. 2509

This is a decision on the petition under 37 CFR 1.137(b), filed February 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 14, 2005. A Notice of Abandonment was mailed on February 2, 2006.

The amendment filed February 3, 2006 is noted.

The application is being forwarded to Technology Center 2800, GAU 2883 for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GE MEDICAL SYSTEM
C/O FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5306

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of :
Brenda L. Donaldson, et. al. :
Application No. 10/797,873 : DECISION ON PETITION
Filed: March 10, 2004 :
Attorney Docket No. 066243-0234 (141207) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice Under 37 CFR 1.251-Pending Application dated, December 17, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on March 18, 2005.

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).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "under this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3.5 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 18, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Foley & Lardner was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts they made to further reply of itself and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (almost 3.5 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Foley & Lardner and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Brian Brown
Petitions Examiner
Office of Petitions

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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OFFICE OF PETITIONS

In re Application of :
Yasuhito Inagaki, et al. :
Application No. 10/797,898 :
Filed: March 10, 2004 :
Attorney Docket No. 09792909.5872 :

ON PETITION

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 13, 2005.

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

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

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

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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Choate, Hall & Stewart, LLP
Two International Place
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of
Yuji Yamamoto et al.
Application No. 10/797,903
Filed: March 10, 2004
Attorney Docket No. 2003946-0080 (FP04-0096-0)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 3, 2009.

The request is **APPROVED**.

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

The request was signed by Kenneth D'Alessandro on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

All future correspondence will be mailed to the address of the assignee of record.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Eisai R&D Management Co., Ltd.
6-10 Koishikawa 4-Chome
Bunkyo-Ku
Tokyo, Japan 112-8088

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/797,903	03/10/2004	Yuji Yamamoto	2003946-0080 (FP04-0096-0

CONFIRMATION NO. 3373

POWER OF ATTORNEY NOTICE

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Date Mailed: 02/27/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/03/2009.

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

/kainabinet/

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

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of
Suzuki, et al.
Application No. 10/797,906
Filed: 9 March, 2004
Attorney Docket No. 12587-048001/D03-047/01

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed on 26 October, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth by amendment filed with the petition.

It is noted that Petitioner refers: (a) to the instant petition as a "renewed" petition, however, the record indicates that the instant petition is the original petition in this regard; and (a) to an application data sheet (ADS) as having been filed with the petition, but it appears that only an amendment was filed with the petition, and the ADS not submitted until a later date.

The petition is **GRANTED**.

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

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

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

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

The requirements above have been satisfied, and the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed. The fee for this petition is charged as authorized to Deposit Account 06-1050.

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

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

Any inquiries concerning this decision may be directed to John Gillon, 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.

This application is being forwarded to Technology Center AU 3625 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.

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
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/797,906	03/09/2004	3625	1368	12587-048001 / D03-047/01	26	3

CONFIRMATION NO. 3382

CORRECTED FILING RECEIPT

26212
FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 08/20/2008

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)

Masami Suzuki, San Francisco, CA;
Martha Danly, Point Reyes Station, CA;
Greg Klenske, San Francisco, CA;
Katherine Kozuki, Martinez, CA;
Nicole Van Der Hulst, San Jose, CA;

Power of Attorney:

Wayne Sobon--32438
Frank Occhiuti--35306
John Phillips--35322
John Rollins--38013
Michael Chernoff--42408
Dwight Thompson--53688

Domestic Priority data as claimed by applicant

This application is a CON of 10/794,769 03/05/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/26/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/797,906**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Reporting metrics for online marketplace sales channels

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/797,911	03/09/2004	2673	0.00	1020-010US01	3	5	1

CONFIRMATION NO. 3361

28863
SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

CORRECTED FILING RECEIPT

OC000000013843271

Date Mailed: 09/22/2004

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

Applicant(s)

Monika Fleischmann, Bonn, GERMANY;
Wolfgang Strauss, Bonn, GERMANY;
YinLin Li, Bonn, GERMANY;
Christop Groenegrass, Bonn, GERMANY;

Assignment For Published Patent Application

Fraunhofer-Gesellschaft zur Foerderung der angewandten Forschung e.V., Munchen, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number **28863**.

Domestic Priority data as claimed by applicant

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 03005293.0 03/11/2003

If Required, Foreign Filing License Granted: 05/26/2004

The number of your priority application, to be used for filing abroad under the Paris Convention is,
US10/797,911

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

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Gesture-based input device for a user interface of a computer

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

REED SMITH CROSBY HEAFEY
1901 AVENUE OF THE STARS, SUITE 700
LOS ANGELES, CA 90067

COPY MAILED

JUL 25 2005

OFFICE OF PETITIONS

In re Application of :
Douglas Tharalson et al :
Application No. 10/797,933 : DECISION ON PETITION
Filed: March 10, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 355774.00301 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 11, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/US00/14086, filed May 22, 2000.

The petition is **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in an

amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 3673 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Karen Creasy

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

JJGJR.: 01-05

Paper No: __

ANDREAS GRUBERT
BAKER BOTTS L.L.P.
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON TX 77002-4995

COPY MAILED

FEB 0 2 2005

OFFICE OF PETITIONS

In re Application of
Rubinstain, et al. :
Application No. 10/797,937 : ON PETITION
Filed: 11 March, 2004 :
Attorney Docket No. 068758.0179 :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 8 November, 2004.

The petition 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 application was filed on 11 March, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 27 May, 2004, the Office mailed a Notice to File Missing Parts requiring that, *inter alia*, a fully signed oath/declaration (with surcharge) (or a petition under 37 C.F.R. §1.47 in its stead be filed as the reply);

- Petitioner Andreas H. Grubert (Limited Recognition Under 37 C.F.R. §10.9) filed on 8 November, 2004, the instant petition under 37 C.F.R. §1.47, which, while it provides an oath/declaration signed by the other co-inventors Messrs. Peleg, Alroy, Harpak and Porat for themselves and on behalf of Messrs. Avinoam Rubinstain (Mr. Rubinstain) and Yackov Sfadya (Mr. Sfadya), it fails to set forth within the petition the last known address of the non-signing inventors Mr. Rubinstain and Mr. Sfadya and fails to demonstrate transmittal of the entire application (description, claims, abstract, drawings) to Messrs. Rubinstain and Sfadya.

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

(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.

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 (a reasonable effort must be made to ascertain a current or last known address)–but also 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.[1]

CONCLUSION

Therefore, the instant petition must be and hereby is **dismissed**.

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

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

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[1] See: MPEP 409.03(b).

[2] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 07-05

Paper No: __

ANDREAS GRUBERT
BAKER BOTTS L.L.P.
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON TX 77002-4995

COPY MAILED

JUL 26 2005

OFFICE OF PETITIONS

In re Application of
Rubinstain, et al. :
Application No. 10/797,937 : ON PETITION
Filed: 11 March, 2004 :
Attorney Docket No. 068758.0179 :

This is a decision on the renewed petition under ¶(a) of 37 C.F.R. §1.47, filed on 28 April, 2005

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 11 March, 2004, without, *inter alia*, a fully executed oath or declaration; and

- on 27 May, 2004, the Office mailed a Notice to File Missing Parts requiring that, *inter alia*, a fully signed oath/declaration (with surcharge) (or a petition under 37 C.F.R. §1.47 in its stead be filed as the reply);

- the original petition, filed on 8 November, 2004, by Petitioner Andreas H. Grubert (Limited Recognition Under 37 C.F.R. §10.9) was dismissed on 2 February, 2005, because–while it

provided an oath/declaration signed by the other co-inventors Messrs. Peleg, Alroy, Harpak and Porat for themselves and on behalf of Messrs. Avinoam Rubinstain (Mr. Rubinstain) and Yackov Sfadya (Mr. Sfadya), it failed to set forth within the petition the last known address of the non-signing inventors Mr. Rubinstain and Mr. Sfadya and fails to demonstrate transmittal of the entire application (description, claims, abstract, drawings) to Messrs. Rubinstain and Sfadya;

- the renewed petition, filed on 28 April, 2005, with a request and fee for extension of time provided further (a) the oath/declaration signed by Mr. Sfadya, and (b) evidence of both transmittal of the entire application (description, claims, drawings) to Mr. Rubinstain and diligent effort to ascertain and specify his last known valid/current address.

Thus, the prior-identified deficiencies have been cured.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §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 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 forwarded to OIPE for processing as necessary to reflect the instant decision, and then will be forwarded to Technology Center 3700 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT GROUP GA030-43
GEORGIA-PACIFIC LLC
133 PEACHTREE STREET NE
ATLANTA, GA 30303-1847

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
Gerald J. Van Handel :
Application No. 10/797,949 : DECISION GRANTING PETITION
Filed: March 10, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12244 C1C1 :

This is a decision on the petition, filed January 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 20, 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 3727 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\Jan10\797949.wpd

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

COPY MAILED
JAN 19 2010

In re Application of
Stephen Brushey
Application No. 10/797,958
Filed: March 10, 2004
Attorney Docket No. DB000841-007

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 16, 2009.

The request is **APPROVED**.

The request was signed by Edward L. Pencoske on behalf of the practitioners of record associated with Customer Number 20,583.

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.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Stephen Brushey
9229 Pannier Road
Pittsburgh, PA 15237

cc: Thorp Reed & Armstrong, LLP
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219-1425

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
10/797,958	03/10/2004	Stephen Brushey	DB000841-007

CONFIRMATION NO. 4864

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

POWER OF ATTORNEY NOTICE

OC00000039655012

Date Mailed: 01/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

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

/idingle/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
10/797,958	03/10/2004	Stephen Brushey	DB000841-007

CONFIRMATION NO. 4864

Stephen Brushey
9229 Pannier Road
Pittsburgh, PA 15237

POA ACCEPTANCE LETTER

OC000000039655080

Date Mailed: 01/19/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

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.

/idingle/

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

Alix Yale & Ristas LLP
750 Main Street
Suite 1400
Hartford, CT 06103

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DEC 0 8 2004

OFFICE OF PETITIONS

In re Application of
Wolfgang Lashofer, et al.
Application No. 10/797,976
Deposited: March 11, 2004
Attorney Docket No. ANDPAT/183/UA

DECISION DISMISSING PETITION

This is a decision on the petition filed March 24, 2004 and supplemented on July 2, 2004, requesting that the above-identified application be accorded a filing date of March 10, 2004, instead of the currently accorded date of March 11, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be forwarded to Technology Center 1700 for examination in due course with the presently accorded filing date of November 29, 2001.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on March 10, 2004, pursuant to the requirements of 37 CFR 1.10.

Paragraph (a) of 37 CFR 1.10 states that:

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

(Emphasis supplied). Paragraph (d) of 37 CFR 1.10 states that:

> "Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include a "showing which establishes to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition is accompanied by a copy of counsel's mail log, which contains an entry for Express Mail label no. EV390694757US, the same Express Mail number found on the application transmittal letter. However, the mail log does not contain an explanation, label, or some other notation, which makes it unclear what each column represents. Beside the entry of Express Mail label number EV390694757US, is "3 10 – 515P." Additionally, the entry for the package in question has an arrow that appears to pointing to another line, which shows "Post Office – I. O'Brien – 3-9-04 – 4:55 p.m.," but the line next to the entry in question shows "750 Main St. – TY – 3/9/04 – 3:00 P." Also, there is an entry between these two lines that contains the initials "LC," a date of 3-10-04, but there's no indication as to location of the drop-off and no time is mentioned. Which of the three lines corresponds with the entry of the package in question? Reading two of the entries, one could question whether the package was actually deposited with the USPS on March 9, 2004, instead of March 10, 2004, as petitioner alleges. Furthermore, it is not clear whether the package was deposited at the Post Office or 750 Main Street. In reading the entry between the two entries just mentioned, it does show that a deposit was made on March 10th, but the location and time are missing. What was the actual date and time the package was deposited? If the deposit was made on March 10th as petitioner alleges and as part of the log suggests, where and what time was the package deposited? Additionally, what is the time of the last pickup for Express Mail packages

at the location where the package in question was deposited? It is noted that all of the other entries on the log shows that deposits were made before 5:00 pm. The entry providing the Express Mail label number is the only entry where a deposit was made after 5:00 pm, namely 5:15 pm. Another entry suggests that a package was deposited at 11:56 pm but the information provided thereafter, states 12:26 pm. It can be assumed that someone mistakenly wrote 11:56 pm, instead of 11:56 am on this particular entry. Nevertheless, one can suppose that the last pickup is before 5:00, which would explain why the package in question was not picked up until the following day. The log simply does not corroborate the allegations made in the petition and does not concretely show that the evidence came into being after the deposit and within one business day of the deposit. Moreover, a review of the USPS website's Track and Confirm shows that the package was deposited with the USPS on March 11, 2004.

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

U. S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop PETITIONS
Crystal Plaza Two Lobby, Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this matter may be directed to Marianne Jenkins at (571) 272-3223.

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

Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

COPY MAILED

JUL 02 2007

OFFICE OF PETITIONS

In re Application of :
Robert Walsh :
Application No. 10/797,977 : DECISION ON PETITION
Filed: March 10, 2004 : TO WITHDRAW
Attorney Docket No. 25379-08538 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2006.

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

A review of the file record indicates that the power of attorney to Fenwick & West LLP has been revoked by the assignee of the patent application on April 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Terri Williams at 572-272-2991.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Klein, O'Neill & Singh, LLP**
43 Corporate Park
Suite 204
Irvine, CA 92606

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent Dept.
Exelixis, Inc.
170 Harbor Way
P.O. Box 511
South San Francisco, CA 94083-0511

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Hager et al.	:	DECISION GRANTING PETITION
Application No. 10/797,978	:	
Filed: March 10, 2004	:	
Attorney Docket No. EX02-049C2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2005, and resubmitted on April 28, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed on May 27, 2004, which set a two-month extendable period to respond. Petitioner did not obtain any extensions of time under 37 CFR 1.136(a). Accordingly, this application became abandoned on July 28, 2004. A Notice of Abandonment was mailed on February 15, 2005.

The petition is granted.

The Office finance records indicate that the Office mistakenly charged petitioner's Deposit Account twice for the $1,500.00 petition fee and the $130.00 surcharge. Accordingly, the Office will credit Deposit Account No. 50-1108 the duplicate fees totaling $1,630.00.

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

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE, MN 55344

Mail Date: 06/02/2010

Applicant	: Lixiao Wang	: DECISION ON REQUEST FOR
Patent Number	: 7682553	: RECALCULATION of PATENT
Issue Date	: 03/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/797,996	: OF WYETH
Filed	: 03/11/2004	:
		:

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

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ROBERT A GONSALVES
12 LEXINGTON STREET
WOBURN MA 01801

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
Robert A. Gonsalves :
Application No. 10/798,004 : DECISION ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. RG-3 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to application No. 09/905,693.

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

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

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

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii).

The instant petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in an amendment to the first sentence of the specification; (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any questions concerning this decision on petition may be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisor
Office of Petitions

Enc: corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/798,004	03/12/2004	2622	385	RG-3	9	3

CONFIRMATION NO. 5175

CORRECTED FILING RECEIPT

76312
ROBERT A. GONSALVES
12 LEXINGTON STREET
WOBURN, MA 01801

Date Mailed: 08/14/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Robert A. Gonsalves, Woburn, WA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 09/905,693 11/14/2000 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 05/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/798,004**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

Video camera utilizing sequential diversity imaging for image clarification

Preliminary Class

348

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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MAR 14 2008

OFFICE OF PETITIONS

In re Application of
Tae-ahn JAHNG, et al
Application No. 10/798,014
Filed: March 10, 2004
Attorney Docket No. 001227/1368

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 18, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP, has been revoked by the assignee of the patent application on January 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BRIAN ROTHERY
STROOCK & STROOCK
& LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOLEX INCORPORATED
2222 WELLINGTON COURT
LISLE IL 60532

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OFFICE OF PETITIONS

In re Application of :
Otto Schempp :
Application No. 10/798020 : ON PETITION
Filing Date: 03/11/2004 :
Attorney Docket Number: :
A3-159 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 8, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

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 7, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 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 a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2839 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/31/09

Paper No.: ____

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/798052 Patent No.: 7287476 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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

3617
Art Unit

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Ingrid A. Beattie, Ph.D., J.D.
Mintz Levin Cohn Ferris Glovsky & Popeo, P.C.
One Financial Center
Boston MA 02111

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of
Wangh
Application No. 10/798,061
Filed: March 10, 2004
Attorney Docket No. 21578-010 CON

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 10, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications

Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

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

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

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

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

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

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

---

[1] *Note* 37 CFR 1.121

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Ingrid A. Beattie, Ph.D., J.D.
Mintz Levin Cohn Ferris Glovsky & Popeo, P.C.
One Financial Center
Boston MA 02111

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OCT 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Wangh :
Application No. 10/798,061 : DECISION ON PETITION
Filed: March 10, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 21578-010 CON :

This is a decision on the reconsideration petition under 37 CFR 1.78(a)(3), filed October 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed applications, 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 for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications set forth in the accompanying amendment satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1632 for appropriate action on the amendment filed October 3, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

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

ATTACHMENT: Corrected Filing Receipt

27 JAN 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:
SIRNA THERAPEUTICS, INC.
PCT No.: PCT/US02/15876
International Filing Date: 17 May 2002
Priority Date: 18 May 2001
Attorney's Docket No.: 02-312-PCT;600.019
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED.**

The international filing date is corrected to **17 May 2002.** The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED.**

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

Mail Date: 04/21/2010

Applicant	: Joseph M. Asher	: DECISION ON REQUEST FOR
Patent Number	: 7582013	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,115	: OF WYETH
Filed	: 03/10/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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

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MAR 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Andre Lavoie et al	:	DECISION ON PETITION
Application No. 10/798,121	:	TO WITHDRAW
Filed: March 11, 2004	:	FROM RECORD
Attorney Docket No. 03883-P0019E	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2005.

The request is **APPROVED**.

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

The request was signed by Wesley W. Whitmyer, Jr. on behalf of all attorneys of record who are associated with customer No. 24126.

All attorneys/agents associated with the Customer Number 24126 have been withdrawn.

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

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

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

This matter is being referred to Technology Center AU 2178.

David Bucci
Petitions Examiner
Office of Petitions

cc: DAVID M. ROSENBLATT
THE THOMSON CORPORATION
METRO CENTER, ONE STATION PLACE
STAMFORD, CT 06902

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BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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MAR 2 1 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Curtis Kirker et al :
Application No. 10/798,125 :
Filed: March 11, 2004 :
Attorney Docket No. 066639.0127 :

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 29, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1723 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO ND 58103

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of :
James H. JONES :
Application No. 10/798,155 : DECISION ON PETITION
Filed: March 09, 2004 :
Attorney Docket No. JONE-009 :

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 10, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 11. 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of May 10, 2007 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 3652 for appropriate action on the concurrently filed response.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **JAMES H. JONES**
1 LEDGEBROOK
WINFIELD, KANSAS 67156

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Neustel Law Offices, LTD.
2534 South University Drive
Suite 4
Fargo, ND 58103

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MAR 1 1 2009

OFFICE OF PETITIONS

In re Application of	:	
James H. Jones	:	
Application No. 10/798,155	:	DECISION ON PETITION
Filed: March 9, 2004	:	TO WITHDRAW
Attorney Docket No. JONE-009	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2008.

The request is **APPROVED**.

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

The request was signed by Michael S. Neustel on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 16, 2008 that requires a reply from the applicant.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **James Jones**
2805 West Milro Circle
Wichita, KS 67204

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/798,155	03/09/2004	James H. Jones	JONE-009

CONFIRMATION NO. 5550

POWER OF ATTORNEY NOTICE

65215
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

OC000000034940114

Date Mailed: 03/11/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2008.

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

/tswilliams/

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

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OCT 04 2007

OFFICE OF PETITIONS

FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO MI 49008-1631

In re Application of :
Stephen Morphet :
Application No. 10/798,160 : DECISION ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 345/553.000 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 10, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on November 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

As the petition indicates that the reply is the filing of a continuing application, this statement is being construed as a request to expressly abandon this application upon revival of this application for continuity purposes with the continuing application. If this is an incorrect reading of the statement in the petition, petitioner must promptly notify this Office.

Accordingly, since revival of this application is apparently being sought solely for purposes of continuity with the continuing application, this application is again abandoned in favor of the continuing application (Application No. 11/704,483, filed February 9, 2007).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,020 extension of time fee submitted with the petition on February 20, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

Frances Hicks
Petitions Examiner
Office of Petitions

0 8 NOV 2004

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Glenn E. J. Henkel
Henkel Corporation
Patent Law Department
2200 Renaissance Blvd., Suite 200
Gulph Mills, PA 19406

In re Application of	:	
GRUENEWAELDER et al.	:	
U.S. Application No.: 10/798,162	:	DECISION ON PETITION
Filing Date: 16 June 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 01107.00482	:	
For: PHOSPHATE ASSOCIATED WITH METASTASIS	:	

This decision is in response to applicant's "Resubmission of Petition to Revive Abandoned International Application" which is being treated as a Petition under 37 CFR 1.181 and a Petition to Revive under CFR 1.137(b) filed 01 November 2004 in the above-captioned application. The petition fee under 37 CFR 1.17(m) has been charged to Deposit Account no. 04-0088.

BACKGROUND

On 13 August 2002, applicant filed international application PCT/EP02/09049 which claimed a priority date of 16 August 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 09 February 2004.

On 11 March 2004, applicant filed a specficiation, drawings, unexecuted declaration and a itemized postcard receipt.

On 01 November 2004, applicant filed "Resubmission of Petition to Revive Abandoned International Application" which included a copy of the Petition to Revive under 37 CFR 1.137(b) and a postcard receipt.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that a Petition to Revive under CFR 1.137(b) was received at the United States Patent and Trademark Office on 11 March 2004. A review of the present application reveals that the Petition to Revive under CFR 1.137(b) is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "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."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, and attorney docket number. The receipt itemizes, among other things, a Petition to Revive . The receipt is stamped by the United States Patent and Trademark Office across its face is sufficient to indicate that the above items were in fact received in the Office on 11 March 2004.

B. Petition to Revive under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has supplied the proper reply in the form of the filing of a continuation application.

As to item (2), the petition fee has been submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicant's petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/EP02/09049 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

20 DEC 2004

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Glenn E. J. Murphy
Henkel Corporation
Patent Law Department
2200 Renaissance Blvd., Suite 200
Gulph Mills, PA 19406

In re Application of :
GRUENEWAELDER et al. :
U.S. Application No.: 10/798,162 :
Filing Date: 11 March 2004 :
Attorney Docket No.: H5336PCT/US :
For: FAST SETTING 1K POLYURETHANE GLUE :

AMENDED
DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This amended[1] decision is in response to applicant's "Request for Correction of Petition Decision under 37 CFR 1.137(b)" filed 09 December 2004. Additionally, this decision is in response to applicant's "Resubmission of Petition to Revive Abandoned International Application" which is being treated as Petition under 37 CFR 1.181 and Petition to Revive under 37 CFR 1.137(b) filed 01 November 2004 in the above-captioned application.

BACKGROUND

On 13 August 2002, applicant filed international application PCT/EP02/09049 which claimed a priority date of 16 August 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 09 February 2004.

On 11 March 2004, applicant filed a specification, drawings, unexecuted declaration and a itemized postcard receipt.

On 01 November 2004, applicant filed "Resubmission of Petition to Revive Abandoned International Application" which included a copy of the Petition to Revive under 37 CFR 1.137(b) and a postcard receipt.

On 09 December 2004, applicant filed "Request for Correction of Petition Decision under 37 CFR 1.137(b)."

---

[1]The "Decision on Petition" mailed 08 November 2004 incorrectly identified the filing date, attorney docket number, title of invention; and corresponding attorney's name.

DISCUSSION

A. Petition under 37 CFR 1.181

Applicant states in their present petition that a Petition to Revive under CFR 1.137(b) was received at the United States Patent and Trademark Office on 11 March 2004. A review of the present application reveals that the Petition to Revive under CFR 1.137(b) is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

> "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."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, and attorney docket number. The receipt itemizes, among other things, a Petition to Revive. The receipt is stamped by the United States Patent and Trademark Office across its face is sufficient to indicate that the above items were in fact received in the Office on 11 March 2004.

B. Petition to Revive under 37 CFR 1.137(b)

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has supplied the proper reply in the form of the filing of a continuation application.

As to item (2), the petition fee has been submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicant's petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/EP02/09049 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel.: 571-272-3298
Facsimile: 571-273-0459

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WINSTON & STRAWN
PATENT DEPARTMENT
1400 L STREET, N.W.
WASHINGTON DC 20005-3502

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OFFICE OF PETITIONS

In re Application of :
Andrew McPherson Downie et al. : DECISION ACCORDING STATUS
Reissue Application No. 10/798,201 : UNDER 37 CFR 1.47(a)
Filed: March 10, 2004 :
Attorney Docket No. 85170-4599 :

This is in response to the petition under 37 CFR 1.47(a), filed July 26, 2004.

The petition is GRANTED.

The above-identified application was filed on March 10, 2004, without an executed oath or declaration and naming Andrew McPherson Downie, Edward Docherty Scott and Roy Powell as joint inventors.

Accordingly, on May 26, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing. A two month period for reply was set.

In response, on July 26, 2004 a petition under 37 CFR 1.47(a) was filed with the last known address of Edward Docherty Scott, petition fee and surcharge, a declaration signed by all of the joint inventors except Mr. Scott. Additionally, a declaration by David Moreland on behalf of the assignee, a statement by the Attorney of Record, regarding the efforts enlisted to have Mr. Scott execute the oath or declaration and copies of correspondences between the assignee and the non-signing inventor have been submitted as proof that Mr. Scott refuses to cooperate with the filing of the instant application after having been provided with the application as filed.

The applicant files this petition alleging that joint inventor Edward Docherty Scott refuses to sign the oath/declaration and seeks status under 37 CFR 1.47(a).

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 above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

The application is being forwarded to Technology Center 3672 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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WINSTON & STRAWN LLP
1700 K STREET, NW
WASHINGTON, DC 20006

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Andrew McPherson Downie et al. :
Application No. 10/798,201 : ON PETITION
Filed: March 10, 2004 :
Attorney Docket Number: 85170-4599 :

This is a decision on the "Request for Withdrawal of Holding of Abandonment" filed June 6, 2006, which is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is GRANTED.

The application was held abandoned on November 15, 2005 for failure to timely file a response to the non-Final Office Action mailed August 12, 2005. No response having been filed, a Notice of Abandonment was mailed March 31, 2006.

Petitioner asserts that a response in the form of an amendment was filed February 10, 2006 with a three month extension of time request. Provided as proof is a copy of the response and extension of time request, as well as a copy of a properly itemized post card receipt date stamped February 10, 2006 by the USPTO.

A search of the application file and the USPTO records does not reveal receipt of the response, but the extension of time fee in the amount of $1020.00 had been properly applied to the finance account on February 10, 2006. In view thereof, the evidence submitted corroborates a timely response to the non-Final Office Action.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 3672 for appropriate action on the amendment filed February 10, 2006, a copy of which was submitted upon petition on June 6, 2006.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 13 2006

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

In re Application of	:
Stephen M. Lewiset al	:
Serial No.: 10/798,226	: PETITION TO MAKE SPECIAL
Filed: March 10, 2004	:
Attorney Docket No.: 14263.2	:

This is in response to the petition filed February 2. 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based environmental quality and also as relating to energy.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part V, gives guidance in this matter, as follows:

> The Patent and Trademark Office will accord "special" status to all patent applications for inventions which **materially enhance** the quality of the environment of mankind **by contributing to the restoration or maintenance of the basic life - sustaining natural elements - air, water, and soil.**
>
> All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by verified statements under 37 CFR 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the PTO ** explaining how the inventions contribute to the restoration or maintenance of one of these life - sustaining elements. No fee is required for such a petition, 37 CFR 1.102(c).

Applicant's claims are directed to a method of processing raw starch into ethanol without "cooking" the starch and then drying the residue in such a manner as to reduce stack emissions significantly so as to contribute to the maintenance of air.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part VI, gives guidance in this matter, as follows:

> The U.S. Patent and Trademark Office will, on petition, accord "special" status to all patent applications for inventions which materially contribute to (A) the discovery or development of energy resources, ... Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc.

Further, although the development of energy resources generally relates to fossil fuels, the development of ethanol as a replacement in whole or in part for fossil fuels is a significant development of a renewable fuel resource and is encouraged by the government.

Applicant's petition is **GRANTED** on both bases.

The application will be forwarded to an examiner for further consideration.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JUL -8 2005

In re Application of	:	
Melvin L. Hubbard	:	
Serial No. 10/798,230	:	DECISION ON PETITION
Filed: March 11, 2004	:	TO MAKE SPECIAL
For: METHOD AND APPARATUS FOR VIBRATORY KINETIC ENERGY GENERATION AND APPLICATIONS THEREOF	:	

Applicant's petition, filed March 11, 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, Director
Technology Center 3700

Mark D. Wieczorek
Mayer Fortkort & Williams
251 North Avenue West
Westfield, NJ 07090

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BLAKE CASSELS & GRAYDON LLP
48 O'CONNOR STREET, 20TH FLOOR
OTTAWA, ONTARIO K1P 1A4, CANADA

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JAN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Larry Sumner	:	
Application No. 10/798,258	:	NOTICE
Filed: March 12, 2004	:	
Attorney Docket No. 85353/37	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.

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

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

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Jan Vogeleer et al	:	
Application No. 10/798,321	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q80471	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 15, 2008 and supplemented on July 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1791 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Masahiro Kakehi	: DECISION ON REQUEST FOR
Patent Number	: 7575901	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,339	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **964** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

Mail Date: 04/21/2010

Applicant	: Tetsuya Ogata	: DECISION ON REQUEST FOR
Patent Number	: 7577076	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,362	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1051** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THOMPSON LAMBERT
SUITE 703D, CRYSTAL PARK TWO
2121 CRYSTAL DRIVE
ARLINGTON, VA 22202

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MAR 15 2005

OFFICE OF PETITIONS

In re Application of :
David Sask :
Application No. 10/798,370 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 003-47USD2 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 4, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 14, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 15, 2004.

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

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

This matter is being referred to Publishing Division.

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

cc: ANTHONY R. LAMBERT
#200, 10328-81 AVENUE
EDMONTON, ALBERTA, CANADA
T6E 1X2 AIRMAIL

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : August 11, 2008

TO SPE OF : ART UNIT 2131

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/798371 Patent No.: 7251832 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Ok to Enter, Approved

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Ayaz Sheikh/

SPE Art Unit

2131

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:080405

DATE : August 4, 2005

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 6,911,464 (10/798,372)

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: Joseph McKane **Art Unit** 1626

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P O BOX 19928
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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Yoshito Toyoda et al	:	
Application No. 10/798,386	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 119060	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 10, 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 2861 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\july9\798386.wpd

---

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

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1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of :
Shinichi Yoshioka :
Application No. 10/798,403 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No.: **23086-81505** :

This is a decision on the petition filed February 20, 2008 to withdraw the holding of abandonment for the above-identified application which is being treated under 37 CFR 1.181.

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

The application was held abandoned on July 25, 2007, for failure to timely submit a timely response to the non-Final Office Action mailed April 24, 2007, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed December 20, 2007.

Petitioner asserts that a response was filed on July 23, 2007 and in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment and a post card receipt date stamped July 23, 2007 by the USPTO.

The evidence submitted corroborates a timely response to the non-Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter will be referred to Technology Center 2611 for appropriate action on the amendment filed July 23, 2007, a copy of which was submitted upon petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 04/21/2010

Applicant	: Tarek Radi	: DECISION ON REQUEST FOR
Patent Number	: 7590072	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,412	: OF WYETH
Filed	: 03/12/2004	:
		:

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

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KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314

Mail Date: 06/28/2010

Applicant	: Tarek Radi	: DECISION ON REQUEST FOR
Patent Number	: 7590072	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/798,412	: OF WYETH
Filed	: 03/12/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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John R.S. Orange
McCarthy Tetrault LLP
66 Wellington Street West, Suite 4700
P.O. Box 48
Toronto ON M5K 1E6 CA CANADA

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Norman, et al. : DECISION ON PETITION
Application No. 10/798,420 :
Filed: March 12, 2004 :
Atty. Dkt. No.: 190262-342957 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 29, 2004 for failure to timely file a proper response to the Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed May 28, 2004. The Notice set a two (2) month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136 were timely requested. Notice of Abandonment was mailed February 15, 2005.

A grantable petition pursuant to 37 CFR 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 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 set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 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 Notice is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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John R.S. Orange
McCarthy Tetrault LLP
66 Wellington Street West, Suite 4700
P.O. Box 48
Toronto ON M5K 1E6 CA CANADA

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Norman, et al. : DECISION ON PETITION
Application No. 10/798,420 :
Filed: March 12, 2004 :
Atty. Dkt. No.: 190262-342957 :

This is a decision on the petition under 37 CFR 1.47(a), filed March 18, 2005, to revive the above-identified application.

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

Petitioner has shown that inventor Jeff Norman either cannot be reached or has refused to sign the declaration.

Thus, 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 above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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TORONTO, ONTARIO
M5A 4T3
CANADA

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Norman, et al. :
Application No. 10/798,420 : LETTER
Filed: March 12, 2004 :
Atty. Dkt. No.: 190262-342957 :

Dear Sir:

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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JUL 24 2008

OFFICE OF PETITIONS

In re Application of :
Abe et al. :
Application No. 10/798,441 : DECISION ON PETITION
Filed: 03/12/2004 :
Attorney Docket No. 2004-0399A :

This is a decision on the petition under 37 CFR 1.181 (no fee), filed May 21, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed September 25, 2007, which set a three (3) month shortened statutory period for reply. On April 29, 2008, the Office mailed a Notice of Abandonment.

Petitioners assert that the nonfinal Office action dated September 25, 2007, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> 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).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the master docket for the firm where the nonfinal Office action would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the nonfinal Office action was not received at the correspondence address of record. Accordingly, petitioners presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2154 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the nonfinal Office action. The three (3) month shortened statutory time period for responding to the nonfinal Office action will be set to run from the date of the re-mailing of the Office action.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 09-07

Paper No: __

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SEP 1 0 2007

OFFICE OF PETITIONS

KANESAKA BERNER AND
PARTNERS PATENT AGENTS, LLP
SUITE 310
1700 DIAGONAL ROAD
ALEXANDRIA VA 22314

In re Application of :
Morozumi, et al. : DECISION
Application No.: 10/798,443 :
Filing Date: 12 March, 2004 :
Attorney Docket No. K-2160 :

This is a decision on the petition filed on 16 February, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

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

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

[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.**

BACKGROUND

The record reflects that:

- the Examiner mailed a Restriction requirement (copy enclosed) on17 February, 2006, and Petitioner failed to reply timely and properly to that requirement with reply due absent extension of time on or before 17 March, 2006;
- the application went abandoned by operation of law after midnight 19 October, 2006;
- the Office mailed a Notice of Abandonment on 1 February, 2006;
- on 16 February, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive a copy of the Office action, and (while Petitioner does not state that he has reviewed/searched his file and his docket records and has not found the Office action or a docket reference thereto) despite the fact that he Noticed the Office before the mail date of the Restriction requirement (including therewith a copy of Petitioner's date-stamped (FEB 16 2006") receipt card (see: MPEP §503[2]) evidencing receipt by the

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[2] 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

Office), he did not receive the Office action–in telephonic conversation with Petitioner, he acknowledged that he moved his offices before filing the 16 February, 2006, Notice, however, the filing did predate the mailing, if only by a day.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) most certainly obviates the lack of awareness by an applicant/practitioner as to events/transactions in an application.

If one wishes to know the progress in and/or status of an application, one need only look at the file online.

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.[3]

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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.)

[3] 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

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).[4]

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.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not

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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]

[4] 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.

[5] 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.

[6] 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).

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

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

constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

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.[10]

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

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

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has satisfied the showing as discussed above.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, the 1 February, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3700 for further processing, including the re-mailing of the Restriction requirement with a new period of reply, 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[11]) 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

Encl
17 February, 2006, Restriction requirement

[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,443	03/12/2004	Naoya Morozumi	K-2160	5264

7590 02/17/2006

KANESAKA AND TAKEUCHI
1423 Powhatan Street
Alexandria, VA 22314

EXAMINER	
TRIEU, THERESA	
ART UNIT	**PAPER NUMBER**
3748	

DATE MAILED: 02/17/2006

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

Office Action Summary	Application No.	Applicant(s)	
	10/798,443	MOROZUMI ET AL.	
	Examiner	Art Unit	
	Theresa Trieu	3748	

-- 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 *1* 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 *12 March 2004*.

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) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-13* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Receipt and entry of Applicants' Preliminary Amendment filed on March 12, 2004 is acknowledged.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: the species of Figs. 1-3, the species of Fig. 4, the species of Fig. 5, the species of Fig. 6, the species of Fig. 7, the species of Fig. 8 and the species of Fig. 9.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Manabu Kanesaka (Reg. No. 31,467) on January 24, 2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. 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).

TT
January 24, 2006

Theresa Trieu
Primary Examiner
Art Unit 3748

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

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

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MAY 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Takeshi Takezawa	:	DECISION ON
Application No. 10/798,448	:	PETITION
Filed: March 12, 2004	:	
Atty Docket No. 119082	:	

This is a decision on the "REQUEST FOR CORRECTION OF PALM RECORDS," filed March 29, 2005, requesting that the above-identified application be accorded a filing date of March 12, 2004, rather than the presently accorded filing date of November 3, 2004.

Application papers in the above-identified application were deposited on March 12, 2004. However, on September 7, 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 deposited without a complete specification as prescribed by 35 U.S.C. 112. In addition, replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121, an English language translation of the non-English language application, a statement that the translation is accurate, and the processing fee set forth in § 1.17(i). This Notice set a two month period for reply, with extensions of time obtainable under § 1.136(a).

On November 3, 2004, applicants timely filed a response, including an English translation of the application. However, applicants did not respond with a petition under § 1.53(e)(2),

or any other section, requesting review of the Notification that the application had not been accorded a filing date. Upon receipt of these additional papers, the Office accorded the application a filing date of November 3, 2004.

Petitioner is advised that pursuant to 37 CFR § 1.181(f), a petition under § 1.53(e)(2) not filed within two months of the action complained of may be dismissed as untimely, without consideration on the merits. However, under the circumstances of the case, discretion will be exercised in favor of petitioner and the petition will be considered on the merits.

Petitioner requests that the filing date be corrected to state a date of March 12, 2004. As stated previously, and apparently unbeknownst to petitioner, the Office accorded a filing date of November 3, 2004, based on the date of submission of the English translation of the application. This was in error.

The Office will accord a filing date to an application meeting the requirements of 35 U.S.C. 111(a), even though some or all of the application papers, including the written description and the claims, are in a language other than English and hence does not comply with 37 CFR 1.52. A review of the application file reveals that the application as filed, though not in English, was entitled to a filing date of March 12, 2004.

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

Given the basis for granting the petition, although authorized, the petition fee will not be charged to petitioner's Deposit Account.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for correction of the filing date to March 12, 2004 and mailing of a corrected filing receipt.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Mark Vincent Scardina	: DECISION ON REQUEST FOR
Patent Number	: 7587667	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,474	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,482	03/12/2004	Akira Takahashi	OKI 414	6303

7590 03/23/2010

RABIN & BERDO, P.C.
Suite 500
1101 14th Street
Washington, DC 20005

EXAMINER	
KRAIG, WILLIAM F	

ART UNIT	PAPER NUMBER
2892	

MAIL DATE	DELIVERY MODE
03/23/2010	PAPER

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

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

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Rabin & Berdo, P.C.
Suite 500
1101 14th Street
Washington, DC 20005

In re Application of:
Akira Takahashi
Serial No.: 10/798482
Filed: March 12, 200
Docket: OKI414
Title: DRY ETCHING METHOD FOR SEMICONDUCTOR DEVICE

DECISION ON PETITION

This is a decision on the petition filed April 21, 2009, under 37 C.F.R. § 1.181, requesting review of the examiner's objections to the drawing and specification under 37 C.F.R. § 1. 83 (a) and 35 USC § 132(a), respectively.

On October 22, 2007, the examiner objected to the drawings for failing to show every feature of the invention specified in the claims. In the response filed March 24, 2008, applicant submitted an amendment to the drawings and the specification to address the objection. On June 9, 2008, the examiner withdrew the previous drawing objection and presented a new objection to the drawing for failing to show every feature of the invention specified in the claims and an objection to the amendment to the specification filed March 24, 2008 for introducing new matter into the disclosure. Applicant traversed the objections in a response filed on October 31, 2008. On January 21, 2009, the examiner maintained the objections. Applicant filed a petition on April 21, 2009 to request a review of the examiner's objections.

Petitioner asserts that the amendment to drawing Fig. 3 (C) and Fig. 4 depict the remaining non-doped polysilicon element (9) and that the amendment of the specification to read "the doped polysilicon regions 4 and 5 and the dummy gate electrode region 6 are etched to form gate electrodes 7 and 8 and a dummy gate arrangement 9" filed on March 24, 2008 do not introduce new matter in violation of 35 USC § 132(a).

In support of the petition, the Petitioner asserts that the specification discloses the dummy gate has an area larger than the total area of the N type polysilicon gate and the P type polysilicon; see

bridging pages 4 and 5 of the instant application. From this disclosure, the Petitioner concludes that one of ordinary skill in the art who has read the present application as filed would have realized that the inventor was in mental possession of the alleged new matter, i.e. the dummy gate (9) would remain larger than the gate electrodes after etching.

Petitioner's attention is directed to the fact that the dummy gate (non-doped polysilicon) is set to be larger before etching occurs and this larger area of undoped polysilicon is being used to control etching of the polysilicon gates. The original Fig. 3(c) shows that the dummy gate is totally consumed, during the patterning of the gate electrodes (doped polysilicon), which serves as the end-point etching detection. There is no implicit or explicit disclosure that the "dummy gate" would remain after patterning N type polysilicon and P type polysilicon (gate electrodes).

Therefore, the new matter objection to drawings 3C and 4 is deemed proper and maintained. However, the original objection to the drawings ¶3 of office action mailed 01/21/2009, which resulted in applicant's amendment to the drawing Fig. 3C and new Fig. 4 and corresponding text in the specification is deemed to be improper and is now withdrawn.

Accordingly, the petition is **Grant-In-Part**. The application will be forwarded to technical support staff to process the petition and response filed April 21, 2009 and to forward to the examiner for further appropriate action.

Any inquiry regarding this decision should be directed to Thao X. Le, Supervisory Patent Examiner, at (571) 272-1708.

Gladys Corcoran, Acting Director
Technology Center 2800
Semiconductors, Electrical and
Optical Systems and Components

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ASHKAN NAJAFI, P.A.
6817 SOUTHPOINT PARKWAY
SUITE 2301
JACKSONVILLE FL 32216

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of :
David R. Myles et al. :
Application No. 10/798,501 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No.: DET1932 :

This is a decision on the petition filed February 13, 2006 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

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

The application was held abandoned on November 29, 2005, for failure to timely file corrected drawings in response to the Notice of Allowability mailed August 26, 2005. Accordingly, a Notice of Abandonment was mailed January 9, 2006.

Petitioner asserts that 1 sheet of drawings, Figure 6, was mailed November 18, 2005 and provides as proof a copy of the transmittal with a certificate of mail dated November 18, 2005. Additionally, 1 sheet of drawings containing Figure 6 was included with the petition.

A search of the application file and the USPTO records does not reveal receipt of the drawings but in view of the evidence provided, the petition is compliant with 37 CFR 1.8(b) and accordingly, the abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to the Publishing Division for a review of the drawings submitted February 13, 2006 with the petition.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Hans I. Sun
Rider Bennett, LLP
Suite 2000
333 South Seventh Street
Minneapolis MN 55402

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NOV 19 [illegible]

OFFICE OF PETITIONS

In re Application of	:	
Velde	:	
Application No. 10/798,517	:	DECISION GRANTING PETITION
Deposited: March 10, 2004	:	
Attorney Docket No. 18131/114	:	
For: HYBRID ALFALFA VARIETY NAMED HYBRIFORCE®-420/WET	:	

This is a decision on the petition, filed October 12, 2004 (certificate of mailing date October 8, 2004) to accord a filing date of March 10, 2004 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on March 10, 2004. However, on August 12, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicant's invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on March 10, 2004 did not describe drawing figures.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition 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, not describing drawing figures in the specification, and filed without drawings will simply be processed for examination.

This application concerns a medicago sativa plant having seed deposited as ATCC accession number PTA-5858 and genetic material related to the plant. It is subject matter for which a drawing is usually not considered essential for a filing date. Therefore, the application should have been accorded a filing date and processed for examination.

In view of the above, the "Notice" mailed August 12, 2004 was mailed in error and is hereby withdrawn.

The application is entitled to a filing date of March 10, 2004. The petition under 37 CFR 1.53(e) is **GRANTED**. The petition fee of $130.00 will be credited to deposit account no. 50-1188.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **March 10, 2004** and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 1600 for examination in due course.

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

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

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NOV 17 2006

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of:
LEE, CHUNG-JEON et al
Serial No.: 10/798,577
Filed: March 12, 2004
Docket: P57047
Title: BUBBLE-JET TYPE INK-JET PRINTHEAD

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed May 22, 2006, to review the restriction requirement issued on Dec. 6, 2005.

The petition is **dismissed as moot**.

In his January May 22, 2006 petition the applicant requested the withdrawal of the restriction requirement issued on Dec. 6, 2005.

The record shows that:

1) On Dec. 6, 2005 the examiner imposed a restriction requirement. The applicant was requested to elect one of two groups of invention. The examiner concluded the groups are distinct because they were "subcombinations disclosed as usable together."
2) On Jan. 6, 2006, the applicant elected Group II invention, claims 39-46 for examination with traverse. In particular, the applicant argued that the two groups are drawn to same invention with different embodiments
3) On Feb. 23, 2006, the examiner issued a first Office action on the merits and made the restriction requirement final.
4) On May 22, 2006 the applicant filed the present petition requesting that the restriction requirement be withdraw.
5) On Sept. 8, 2006, the examiner reconsidered the applicant's arguments and issued a new Office action with withdrawal of the restriction requirement of Dec 6, 2005. The new office action will be mailed in due course.

In view of the history of the application, the relief the applicant requested, namely the withdrawal of the restriction requirement of the Dec. 6, 2005, has already occurred. Accordingly, the petition is dismissed as moot.

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

Frederick R. Schmidt, Director
Technology Center 3700

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Arnold Blinn	: DECISION ON REQUEST FOR
Patent Number	: 7636941	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,580	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1170** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BINGHAM MCHALE LLP
2700 MARKET TOWER
10 WEST MARKET STREET
INDIANAPOLIS IN 46204

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OFFICE OF PETITIONS

In re Application of :
Sudhansu S. Yadav et al :
Application No. 10/798,646 : ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 11162-43762 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing Application No. 11/428,728, filed July 5, 2006.

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

Karen Creasy
Petitions Examiner
Office of Petitions

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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

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OFFICE OF PETITIONS

In re Application of :
Ernest J. Jensen, et al. :
Application No. 10/798,651 : DECISION ON PETITION
Filed: March 11, 2004 : TO WITHDRAW
Attorney Docket No. 926512-100248 : 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 18, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Barnes & Thornburg, LLP has been revoked by the assignee of the patent application on Barnes & Thornburg, LLP. 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.

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

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

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DANIELS DANIELS & VERDONIK PA
GENERATION PLAZA
SUITE 200
1822 N.C. HIGHWAY 54 EAST
DURHAM NC 27713

MAIL

JUN 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
HALES et al
Application No. 10/798,671
Filed: March 11, 2004
For: BI-DIRECTIONAL TRANSFER OF SIGNALS BETWEEN A POWER LINE COMMUNICATION SYSTEM AND COAXIAL DISTRIBUTION SYSTEM

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on May 02, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

All attorneys/agents associated with Customer Number 26108 have withdrawn.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, *the request is **granted.*** Future correspondence will be sent to the below address which has been provided by the withdrawing attorney(s).

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-7288

cc: JOHN L. DOUGHTY
ARRIS INTERNATIONAL INC.
3871 LAKEFIELD DRIVE
SUWANEE GA 30024

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MICHAEL A. O'NEIL, P.C.
5949 SHERRY LANE
SUITE 820
DALLAS, TX 75225

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OFFICE OF PETITIONS

In re Application of :
Doug A. Kaufmann, et al. :
Application No. 10/798,691 : DECISION ON PETITION
Filed: March 11, 2004 : TO WITHDRAW
Attorney Docket No. 700725-1003 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 23, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

There is an outstanding Office action mailed September 21, 2006 that requires a response by the applicant.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DOUG KAUFMANN
301 W. WASHINGTON STREET
ROCKWALL, TX 75087

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Poulsen Roser Pacific, Inc.
620 South Front Street
Central Point OR 97502

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OFFICE OF PETITIONS

In re Application of :
Olesen :
Application No. 10/798,699 : DECISION ON
Filed: March 10, 2004 : PETITION
Attorney Docket No. EVIPO018 :
FOR: CLEMATIS PLANT NAMED "EVIPO018"

This is a decision on the petition under 37 CFR 1.137(a) to revive the above-identified application and the petition under 37 CFR 1.181 to withdraw the holding of abandonment. Both petitions were filed on June 6, 2005.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

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

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance and Fee(s) Due, mailed November 16, 2004, which set a period for reply of three (3) months. Having received no reply, the Office deemed this application abandoned on February 17, 2005. A Notice of Abandonment was mailed on May 25, 2005.

Petitioner alleges that he did not receive the November 16, 2004 Notice of Allowance and Fee(s) Due. It is assumed that petitioner did not receive the November 16, 2004 Notice of Allowability, as well. The showing required to establish nonreceipt of an Office communication must include:

1. A statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
2. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in

practitioner's statement.[1]

A review of the record indicates no irregularity in the mailing of the November 16, 2005 Notices, and in the absence of any irregularity there is a strong presumption that the communications were properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communications were not in fact received.

Petitioner has provided adequate evidence to show that the delay in submitting the issue fee was unavoidable. Practitioner states that a search of the file jacket and docket records shows that the November 16, 2004 Notice was not received at the correspondence address of record. Practitioner has provided a copy of the docketing records where correspondence would have been entered had the November 16, 2004 Notice been received. There is no mention of the November 16, 2004 Notice. The evidence is persuasive that the delay in responding to the November 16, 2004 Notice of Allowance and Fee(s) Due was unavoidable.

The petition under 37 CFR 1.181 is **granted**. The holding of abandonment is withdrawn.

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

Regarding finances, the $250.00 petition to revive fee and the $300.00 publication fee will be credited to deposit account no. 50-1828. Both fees are unnecessary because (1) the petition under 37 CFR 1.137(a) was dismissed as moot and (2) the application was filed with a nonpublication request.

The November 16, 2004 Notices will not be remailed with a new period set for response in the interest of avoiding further delay. It is noted that petitioner has paid the issue fee due. However, petitioner has not submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on any future patent, the attached Fee Transmittal Form should be completed and returned to the Publishing Division within ONE MONTH from the mail date of this decision.

Copies of the November 16, 2004 Notices are included to complete petitioner's records.

After the mailing of this decision, the application file will be forwarded to Publishing Division for processing into a patent.

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosures: Notice of Allowance and Fee(s) Due - November 16, 2004
Notice of Allowability - November 16, 2004.

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DON W. WEBER
235 BRISTOL
TROY, IL 62294

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OFFICE OF PETITIONS

In re Application of	:	
Thery, Lou	:	DECISION ON PETITION
Application No. 10/798,701	:	TO WITHDRAW
Filed: March 12, 2004	:	FROM RECORD
Attorney Docket No. 360	:	

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 4, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys associated with Customer Number 32823 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The application became abandoned for failure to timely and properly reply to the Office action mailed October 24, 2005.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

JUSTIN I. SAGE
5617 CRESTVIEW AVE
INDIANAPOLIS IN 46220

LOU THERY
P.O. BOX 94
BUNKER HILL, IL 62014

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: Alexander Reznik	: DECISION ON REQUEST FOR
Patent Number	: 7583720	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/798,707	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **967** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NOV 15 2006

TECHNOLOGY CENTER 3600

David P. Dureska
BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP.
4518 Fulton Drive, N.W.
P.O. Box 35548
Canton, OH 44735-5548

In re Application of
James D. Wilson
Application Number 10/798,708
Filed: March 11, 2004
For: TIRE-DETECTING WHEEL CHOCK APPARATUS

Petition for Supervisory Review under 37 C.F.R. §1.181

This is a decision on the petition filed on August 14, 2006, under 37 C.F.R. §1.181 requesting supervisory review of the propriety of the finality of the office action mailed on June 13, 2006.

The petition is GRANTED.

Background

- A non-final office action mailed on October 6, 2005, rejected claims 1, 4-6, and 8 under 35 U.S.C. §103(a) as unpatentable over Cherico, U.S. patent No. 3,824,536, in view of Reynard, U.S. patent No. 6,781,516, and claims 2 and 3 as unpatentable over Cherico in view of Reynard et al, and further in view of Fischer et al., U.S. published application No. 2004/0056763 A1.
- A response and a request for a three-month extension of time were received on April 3, 2006 (Certificate of Mailing dated March 22, 2006). That response amended claim 1 to include further limitations regarding the "sensor means" previously set forth.
- A final office action mailed on June 13, 2006 rejected claims 1 and 4-6 under 35 U.S.C. §103(a) as unpatentable over Metz, U.S. Patent No. 6,336,527, in view of Geldon, U.S. Patent No. 5,457,838. Claims 1, 2, and 4-6 were also rejected under 35 U.S.C. §103(a) as unpatentable over Hageman, U.S. Patent No. 6,276,496 in view of Alexander, U.S. Patent No. 6,033,174.

Analysis

Petitioner argues that the new grounds of rejection introduced by the examiner in the final rejection were not necessitated by applicant's amendments of the claims, and thus the rejection cannot be made final under MPEP §706.07(a).
Regarding claim 1, Petitioner states that the amendment made to independent claim 1 was "merely filed to *clarify* the claims." However, it is clear from the remarks filed with the April 3 response that the amendment to claim 1 was made in

order to overcome the prior art rejection. In particular, the paragraph bridging the end of page 5 through the top of page 6 of the remarks points out that the applied prior art includes a mechanical sensor, while claim 1 as amended sets forth a non-mechanical, non-contact type sensor. Thus, absent other considerations, the new grounds of rejection applied against claim 1 would not preclude a final office action.

However, a review of the remaining claims reveals that the "inductive proximity sensor" which is recited in amended claim 1 as one alternative sensor means, was recited in claim 2 prior to the amendment and rejected in the non-final office action as described above. Thus, both amended claim 1 and claim 2 could have been rejected as unpatentable over Cherico in view of Reynard et al, and further in view of Fischer et al., U.S. published application No. 2004/0056763 A1, as set forth in the first office action. The examiner's reliance on different references in the final rejection constitutes a new ground of rejection that was not necessitated by the amendment to claim 1.

Conclusion

The petition for supervisory review of the finality of the office action mailed on June 13, 2006, is GRANTED. The finality of the office action mailed on June 13, 2006, is withdrawn. Should petitioner file a response to the office action, it will be entered and treated as a response under 37 C.F.R. §1.111. However, Petitioner's requested relief that the claims be allowed as they stand will not be granted, since the rejection of claims is an appealable, not petitionable matter and will therefore not be addressed in this decision.

The period for response set in the June 13, 2006, communication continues to run[1].

Telephone inquiries should be directed to Katherine Matecki at (571) 272-6951.

Katherine Matecki

Katherine Matecki
Acting Director, Technology Center 3600
(571) 272-6951

[1] **§ 1.181 Petition to the Director.**

.....

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

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

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MAY 31 2006

OFFICE OF PETITIONS

Applicant: Gallagher et al.
Appl. No.: 10/798,714
Filing Date: March 20, 2004
Title: FUEL CELL STACKS OF ALTERNATING POLARITY MEMBRANE ELECTRODE ASSEMBLIES
Attorney Docket No.: 61368-223339
Pub. No.: US 2005/0214863 A1
Pub. Date: September 15, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221, filed on May 2, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the contents of another application that was submitted as part of an information disclosure statement.

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

The request for corrected publication received on May 2, 2006, was not timely filed under 37 CFR 1.221(b).

Due to the nature of the errors in this publication, the office will *sua sponte* publish a corrected patent application publication. The corrected patent application publication will be published in

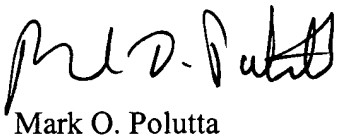
[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

due course, unless the application is allowed and the patent issues before the application is republished.

The documents scanned on July 8, 2004, which were improperly indexed as specification, claims and drawings and published have been relabeled as a non-patent literature.

Applicant is reminded that paper copies of pending U.S. Patent Applications are not required for compliance with 37 CFR 1.98. See Waiver of the Copy Requirement in 37 CFR 1.98 for Cited Pending U.S. Patent Applications, 1287, Off. Gaz. Pat. Office Notices 163 (Oct. 19, 2004). The Office had provided a waiver for the former requirement in Sec. 1.98(a)(2)(i) for a copy of each cited U.S. patent or U.S. patent application publication in IDSs submitted in U.S. national patent applications filed after June 30, 2003, and international applications that have entered the national stage under 35 U.S.C. 371 after June 30, 2003, because these applications are stored in electronic form in the Office's IFW system. See Information Disclosure Statements May Be Filed Without Copies of U.S. Patents and Published applications in Patent Applications filed after June 30, 2003, 1273 Off. Gaz. Pat. Office 55 (Aug. 5, 2003).

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



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FEB 11 2005

OFFICE OF PETITIONS

In re Application of :
George L. Matlock :
Application No. 10/798,717 : NOTICE
Filed: March 10, 2004 :
Attorney Docket No. 017761-002620US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This matter is being referred to Technology Center AU 3736 for examination in due course.

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

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OFFICE OF PETITIONS

In re Application of
George L. Matlock
Application No. 10/798,717
Filing Date: March 10, 2004
Attorney Docket No.: 017761-002620US
Title: INCONTINENCE TREATMENT WITH URETHRAL GUIDE

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 24, 2005, 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 **GRANTED**.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included via an amendment to the specification, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

This matter is being referred to Technology Center Art Unit 3736 for appropriate action on the amendment filed August 24, 2005, including consideration by the Examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

It is noted in passing that Petitioner has listed the incorrect inventor on both his petition and the amendment, in that the inventor listed on these papers differs from that which appears on both the declaration and the Application Data Sheet.

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 Senior

Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks

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

ATTACHMENT: Corrected Filing Receipt

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APR 15 2005

OFFICE OF PETITIONS

In re Application of :
Morley, et al. :
Application No. 10/798,727 : DECISION GRANTING PETITION
Filed: March 11, 2004 :
Attorney Docket No. 17516-008120US :

This is a decision on the "RESPONSE TO NOTICE TO FILE MISSING PARTS", filed November 2, 2004,[1] which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of March 11, 2004, with Figures 14, 15, and 16A-B of the drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on March 11, 2004. However, on September 24, 2004, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of Nonprovisional Application." Applicants were instructed to submit the missing statutory basic filing fee, together with the surcharge for its late filing. In addition, applicants were notified the application papers had been accorded a filing date of March 11, 2004; however, Figures 14, 15, and 16A-B of the drawings appeared to have been omitted.

[1] Supplemented by facsimile transmission filed January 31, 2005.

In response, the present petition was filed. Petitioners have submitted a postcard receipt, itemizing "No. Sheets of Drawings: 19" as enclosed, and bearing a USPTO date stamp of March 11, 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.[2]

In view of the above, the petition is **GRANTED**.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed March 11, 2004, and Figures 14, 15, and 16A-B of the drawings as resupplied on petition filed November 2, 2004, and for indication in Office records that 19 sheets of drawings were present on filing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[2] See MPEP 503.

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OFFICE OF PETITIONS

In re Application of	:	
Morley et al.	:	DECISION ON PETITION
Application No. 10/798,727	:	TO WITHDRAW
Filed: March 11, 2004	:	FROM RECORD
Attorney Docket No. 17516-008120US	:	

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 4, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 20350 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci for
Petitions Examiner
Office of Petitions

cc:

PATENT DEPT.
INTUITIVE SURGICAL, INC
950 KIFER ROAD
SUNNYVALE, CA 94086

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OFFICE OF PETITIONS

In re Application of
Partlo, et al.
Application No. 10/798,740
Filing Date: 10 March, 2004
Attorney Docket No. 2003-0083-01

DECISION ON PETITION

This is a decision on the petition filed on 25 October, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 10 March July, 2004, for Figs. 11, 12 and 13 as described in the specification of the application.

The petition is **GRANTED**.

BACKGROUND

This nonprovisional application was deposited on 10 March, 2004.

On 8 September, 2004, the Office mailed a "Notice to File Missing Parts of a Nonprovisional Application," (the 8 September Notice) and indicated, *inter alia*, that a filing date had granted.

The 8 September Notice also informed Petitioner that the application would receive the filing date consistent with the submission of required drawings, or that Petitioner might evidence that the papers in question were deposited with the application.

The petition filed on 25 October, 2004, states that it is accompanied, *inter alia*, by a date-

stamped receipt card itemizing the contents of the application received by the Office and copy of Figs. 11, 12 and 13 as described in the specification.

ANALYSIS

A review of the record reveals that:

- the instant application was deposited with the Office on 10 March, 2004; and
- the receipt card (see: MPEP §503[1]) is date stamped ("03104") and provides, *inter alia*:

* * *

Utility Patent Application Transmittal (4 pgs.); Specification (37 pgs.); Claims (25 pgs.)
Abstract (1 pg) 29 Drawing Sheets; Unexecuted Declaration (5 pgs.);

* * *

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[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.)

The record further discloses that:

- the 26 sheets of drawings contained in the file prior to the filing of the petition contain Fig. 1; Fig. 1A; Fig. 2A; Fig. 2 B; Fig. 3; Fig. 4 and Fig. 5; Fig. 6A; Fig. 6B; Fig. 7; Fig. 8; Fig. 9; Fig. 13; Fig. 14, Fig. 15; Fig. 16; Fig. 17; Fig. 18; Fig. 19; Fig. 20; Fig. 21A; Fig. 21B; Fig. 22A; Fig. 22B; Fig. 22C; Fig. 22D; Fig. 22E, and there are no duplicate figures; and

- as indicated above, the receipt card date stamped by the Office acknowledges receipt of 29 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 29 sheets of drawings (containing Figs. 1 through and including Fig. 22E) as described in the specification were submitted on 10 March, 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 is refunded to Deposit Account 03-4060; and the Notice mailed on 8 September, 2004, hereby is withdrawn as to the three sheets of drawings containing Fig. 11, Fig. 12, and Fig.13, as described in the specification.

This application is released to the Office of Initial Patent Examination for further processing with a filing date of 10 March, 2004, for the entire application and in particular for Fig. 11, Fig. 12 and Fig. 13 of the 29 sheets of drawings (containing Figs. 1 - 22E) as described in the specification using:

- pages 1 - 64 (Specification, Claims, Abstract) and Figs. 1 - 9 and 13 - 22E (in 26 sheets of drawings) deposited on 10 March, 2004; and

- the Fig. 11, Fig. 12 and Fig. 13, as described in the specification, deposited on 25 October, 2004;

- with direction to OIPE to correct Office records to reflect that 64 pages of specification (description, claims and abstract) and 29 sheets of drawings were present on filing on 10 March, 2004, and forward to Petitioner a corrected filing receipt setting forth a filing date of 10 March, 2004, reflecting therein that 64 pages of specification (description, claims and abstract) and 29 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

FORD GLOBAL TECHNOLOGIES
SUITE 600 - PARKLANE TOWERS EAST
ONE PARKLANE BLVD
DEARBORN, MI 48126

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Clas Jernstrvm :
Application No. 10/798,758 : ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 81094707 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed June 1, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 2, 2004.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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KEITH B. WILLHELM
6266 DEL MONTE
HOUSTON, TX 77057

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APR 11 2006
OFFICE OF PETITIONS

In re Application of :
Marcus L. Thuesen et al :
Application No. 10/798,760 : DECISION GRANTING PETITION
Filed: March 11, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. THUE:002 :

This is a decision on the petition, filed December 12, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 9, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m);

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of July 20, 2006, has been mailed under separate cover.

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

This application is being forwarded to Technology Center Art Unit 3728 for action in the normal course of business on the reply filed October 31, 2005 to the Office action of October 5, 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
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LAW OFFICE OF CRAIG BOHN
2134 BRANARD STREET
HOUSTON, TX 77098

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NOV 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Clifford L. Smith :
Application No. 10/798,768 : ON PETITION
Filed: March 11, 2004 :
For: Composite Tool Coating System :

This is a decision on the petition under 37 CFR 1.137(b), filed September 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed February 25, 2005, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on July 14, 2005, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed August 23, 2005. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. Extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 26, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of February 25, 2005 is accepted as having been unintentionally delay.

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

This matter is being referred to Technology Center AU 1762.

Wan Laymon
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JUN 28 2007

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

In re Application of :
FOGARTY, Thomas J. et al. :
Application No. 10/798,776 : DECISION ON PETITION
Filed: March 10, 2004 : TO WITHDRAW
Attorney Docket No. **FGRTNM00401** : 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 12, 2007.

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

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on April 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LEVINE BAGADE HAN LLP**
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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SEP 17 2007

OFFICE OF PETITIONS

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

In re Application of :
Tenerz, et al. : LETTER REGARDING PTA
Application No. 10/798,784 :
Filed: March 12, 2004 :
Atty. Dkt. No.: 030481-0216 :

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed May 30, 2007. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed March 27, 2007 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 182 days. Applicants indicate that the correct adjustment is 157 days, the Office having failed to reduce the period of adjustment 25 days in connection with the request for continued examination filed September 12, 2006,

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 157 days, as indicated by applicants.

As undisputed by applicants, the application is entitled to an adjustment of 182 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1) in connection with the non-final Office action mailed November 10, 2005.

The adjustment totalling 182 days is properly reduced 25 days, as indicated by applicants, under 37 CFR 1.704(b) in connection with the request for continued examination filed September 12, 2006 in response to the final Office action mailed May 18, 2006.

Accordingly, at the time of allowance, the application is entitled to an adjustment 157 days (adjustment of 182 days less applicants' delay of 25 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Patent Publication for issuance of the patent.

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

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

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JJGJR.: 07-06

Paper No:__

MICHAEL A. SHIPPEY, PH.D.
4848 LAKEVIEW AVENUE
SUITE B
YORBA LINDA CA 92886

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JUL 10 2006

OFFICE OF PETITIONS

In re Application of :
Chavez, et al. :
Application No. 10/798,797 :
Filing Date: 10 March, 2004 :
Attorney Docket No.: 415.100/ :

DECISION

This is a decision on the petition filed on 15 March, 2006, requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

NOTE:

Monitoring of the status of applications on Private PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

As discussed herein, Petitioner avers non-receipt of an Office action, however, Petitioner also indicates that he obtained online event information and documents, which suggests, in turn, that Petitioner may have known about the abandonment in question well before the filing of the instant petition. Regulatory requirements, of course, mandate the filing of a petition seeking relief under 37 C.F.R. §1.181 within two (2) months of the act complained of, to wit: the abandonment which took place by operation of law after midnight 29 August, 2005.

On the basis of the record indication that the 29 July, 2005, Office action (Restriction Requirement) was mailed to an old and, thus, incorrect, address because the Power of Attorney submitted on 31 August, 2004, appears not to have been entered to reflect the customer number

and mailing address of the successor agent of record, the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Restriction Requirement mailed on 29 July, 2005, with reply due absent an extension of time on or before 29 August, 2005;
- the application went abandoned after midnight 29 August, 2005;[1]
- the Office mailed the Notice of Abandonment on 3 March, 2006;
- on 15 March, 2006, Petitioner filed the instant petition, along with a reply to the Restriction Requirement of 29 July, 2005, and averred, *inter alia*, that an Office clerical error caused the abandonment and Petitioner never received the Office action in question; and
- review of the record herein indicates, inter alia, that because the Office apparently failed to enter the Power of Attorney (and customer number/address data associated therewith) filed of on 31 August, 2004, the Office action in question was mailed to the Office of former Counsel herein.

Not satisfied to rest on the record, however, Petitioner further avers:

* * *

> [B]ased on information obtained from public PAIR, it appears that the mailing address for the undersigned was somehow mistaken at the 'PTO (sic). All pertinent mailing from the 'PTO (sic)* * * were mailed to the Altera Law Group in Minneapolis, MN. However, the undersigned agent, Michael A. Shippey, remained the official agent of the Applicant, dating from the initial filing of the patent application. No communication in regard to this application has

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[1] Petitioner states: "this application became abandoned on March 3, 2006, for failure to respond to an office action within the statutory period of 6 months."

As one registered to practice before the Office, Petitioner is well aware that abandonment occurs by operation of law–and not on Notice thereof–and that, while the statutory maximum period for reply is six (6) months, Congress has authorized that period to be–as occurred herein–as short as one (1) month, not less than thirty (30) days.

This clearly is not a distinction without a difference.

been received by the undersigned since said application was filed.

* * *

The undersigned agent is not affiliated with the Altera Law Group, and has never been so associated.

* * *

(Notably, Petitioner does not refer to one or more date-stamped receipt cards (see: MPEP §503[2]) to evidence Office receipt of any document(s).)

Petitioner's protestations notwithstanding and issues of Petitioner's present or former associations aside, the record clearly evidences that:

- the instant application was filed by a registered practitioner associated with the Altera Law Group;

- the Application Transmittal and the oath/declaration designated the mailing address of the Altera Law Group as associated with its discrete customer number as the correspondence

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[2] 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.)

address of record and the information disclosure statement specifies the use of Altera Law Group's discrete deposit account number, all prior to Petitioner's involvement herein; and

- whatever the method by which he obtained the Office action, Petitioner responded on 31 August, 2004 (with, *inter alia*, filling fees and a request and fee for extension of time), to Notice of Missing Parts properly mailed by the Office on 1 June, 2004, to Altera Law Group at the address associated with that firm's customer number.

At the time Petitioner submitted the instant petition he knew or should have known the foregoing facts–with which his statement thereof seems not always to be congruent–because those facts clearly are in evidence in the online record from which Petitioner refers.

Moreover, while the filing of Status Inquiries at intervals of three (3) or four (4) months might support an averment of diligence in attention to a matter such as to support an averment under the provisions of 37 C.F.R. §1.181, Petitioner does not appear to have filed a single Status Inquiry between the date on which he filed the Power of Attorney on 31 August, 2004, and the date of the filing of the instant petition–a period of 19 months.

Thus notwithstanding Petitioner's averment that "[n]o communication in regard to this application has been received by the undersigned since said application was filed," Petitioner appears not to have stopped to ask the Office at any time through nineteen (19) months: "Why?"

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[3] 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

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).[4]

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.[5]

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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]

[4] 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.

[5] 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.

Delays in responding properly raise the question whether delays are unavoidable.[6] 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).[7] And the Petitioner must be diligent in attending to the matter.[8] 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.[9]))

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.[10]

Further, the commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented 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

---

[6] 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).

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

[8] 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.

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

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.
>
> * **
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)
>
> * * *

And the regulation (37 C.F.R. §1.181[11]) requires that relief be sought within two (2) months of

---

[11] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form

the act complained of.

While Petitioner makes no averment as to a search of his files for the documents in question, the facts that:

- the Office did not update the power of attorney–and so the correspondence address–in response to the 31 August, 2004, filing; and
- thus the 29 July, 2005, Restriction requirement was mailed to an incorrect address,

appear quite clearly to demonstrate that an Office action mailed to an incorrect address cannot be expected–much less presumed–to be received. Thus, the requirements described above appear to be satisfied.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 hereby is **granted**.

The instant application is released to the Examiner in Technology Center 3600 for further processing in due course.

---

of affidavits or declarations (and exhibits, if any) must accompany the petition.
(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.
(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.
(e) Oral hearing will not be granted except when considered necessary by the Director.
(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.
(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

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
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GEORGE R. ROYER
SUITE 416
316 N. MICHIGAN STREET
TOLEDO OH 43614

COPY MAILED

MAY 22 2008

OFFICE OF PETITIONS

In re Application of :
George R. Royer :
Application No. 10/798,803 : ON PETITION
Filed: March 12, 2004 :
Title of Invention: **SOLAR BATTERY** :

This is a decision on the petition filed April 14, 2008 to withdraw the holding of abandonment for the above-identified application which is being treated under 37 CFR 1.181.

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

A Preliminary Amendment was filed December 20, 2004. In response thereof, a Notice of Non-Compliant Amendment was mailed January 12, 2005. The Notice set a one month period for filing a compliant amendment. Failure to do so within one month would result in the filed preliminary amendment not being accepted. A Preliminary Amendment was filed January 27, 2005 and a second Notice of Non-Compliant Amendment was mailed March 17, 2005 which again advised that the Preliminary Amendment filed January 27, 2005 was non compliant. Again a one month period of reply was set. In addition to the Notice of Non-Compliant Amendment mailed March 17, 2005, a Notice of Fee Deficiency was mailed which advised that the Preliminary Amendment filed January 27, 2005 added two more independent claims and that therefore an additional $200 was due within one month. As opposed to the Notice of Non-Compliant Amendment, the failure to comply with the Notice of Fee Deficiency would result in abandonment.

A Notice of Abandonment was mailed February 7, 2008 for failure to file a proper reply to the March 17, 2005 Office Letter.

Petitioner argues that failure to accept the preliminary amendment should not cause the basic application to be abandoned.

A review of the file reveals that since the January 27, 2005 preliminary amendment

which added two more independent claims and which was non-compliant and thus not entered because the applicant did not respond to the March 17, 2005 in a timely manner, petitioner was not required to pay the fees in response to the Notice of Fee Deficiency within the longer of one month or thirty days from mailing. In view thereof, the Notice of Abandonment mailed February 7, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter will be referred to the Office of Patent Application Processing 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED

MAY 19 2010

OFFICE OF PETITIONS

In re Application of :
Sung-Yong KANG, et al :
Application No. 10/798,814 : DECISION ON PETITION
Filed: March 10, 2004 :
Attorney Docket No. 21C-0117 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 23, 2009. As required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) and the required statement of unintentional delay.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/798,819	03/11/2004	2171	1302	MS1-1906US	5	40	5

22801
LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

CONFIRMATION NO. 7127

CORRECTED FILING RECEIPT

OC000000013063729

Date Mailed: 06/24/2004

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)

Eric D. Deily, Issaquah, WA;
Ming Lu, Redmond, WA;
Gabriele Giuseppini, Redmond, WA;
Melur Raghuraman, Sammamish, WA;
Jaroslav Dunajsky, Redmond, WA;

Assignment For Published Patent Application

Microsoft Corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/27/2004

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Tracing a web request through a web server

Preliminary Class

707

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

GRANTED

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

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

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

NOT GRANTED

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

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/26/2010

Applicant	: Ragip Kurceren	: DECISION ON REQUEST FOR
Patent Number	: 7599565	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/798,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FROM DIRECTORS OFFICE

SEP 27 2005

TECHNOLOGY CENTER 3600

Fogg and Associates, LLc
P.O. Box 581339
Minneapolis, MN 55458-1339

In re application of : **DECISION ON PETITION**
Phillip Robert Kavanagh : **TO MAKE SPECIAL**
Application No. 10/798,842 : **(INFRINGEMENT)**
Filed: March 11, 2004 :
For: VENTING FOR THERMAL AIRCRAFT

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 7, 2004 to make the above-identified application special.

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

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

The petition filed May 7, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 5/18/05

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Paper No.

Edward A. Pennington
Swidler Berlin Shereff Friedman, LLP
Suite 300
3000 K Street, NW
Washington DC 20007-5116

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NOV 10 2004

OFFICE OF PETITIONS

In re Application of :
Ono et al. : DECISION ON PETITION
Application No. 10/798,851 :
Filed: March 12, 2004 :
Attorney Docket No. 19546.0044 :

This is a decision on the "PETITION IN RESPONSE TO NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION" filed October 1, 2004, requesting that the above-identified application be accorded a filing date of March 12, 2004, with Figures 7-18 considered part of the original application disclosure.

Application papers in the above-identified application were filed on March 12, 2004. However, on September 23, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," notifying applicants that the application papers had been accorded a filing date; however, Figures 7-18 described in the specification appeared to have been omitted from the application.

Petitioner responded with the instant petition (and petition fee). Petitioner submits that Figures 7-18 were filed along with the nonprovisional application papers on March 12, 2004. In support thereof, petitioner submits a copy of their date-stamped postcard receipt, a copy of the transmittal sheet, and a copy of Figures 7-18.

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 bears an OIPE date-stamp acknowledging receipt on March 12, 2004, 2) it identifies the items being filed, including "Drawings 15 sheet(s)," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 15 sheets of drawings, were filed on March 12, 2004.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 19-5127, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of March 12, 2004, using the application papers received in the Office and presently accorded that date, including Figures 1-6; and the 9 sheets of drawings containing Figures 9-15 re-supplied on petition filed October 1, 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

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United States Patent and Trademark Office
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MAY 11 2007

OFFICE OF PETITIONS

Edward A. Pennington
Swidler Berlin Shereff Friedman, LLP
Suite 300
3000 K Street, NW
Washington DC 20007-5116

In re Application of
Ono et al.
Application No.10/798,851
Filed: March 12, 2004
Title of Invention: Area Information Provision System and Method

ON PETITION

This is a decision on the petition filed March 30, 2007 under 37 CFR 1.137(a).

The petition to revive under 37 C.F.R. § 1.137(a) is **DISMISSED**.

Any request for reconsideration 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(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a reply to the Ex Parte Quayle Action of August 28, 2006. The Ex Parte Quayle Action set a two (2) 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 October 29, 2006. An untimely response was submitted on March 30, 2007. A Notice of Abandonment was mailed on April 2, 2007.

Petitioner contends the Ex Parte Quayle Action was never received. In support of the petition, petitioner has provided a statement that the file jacket was searched and the Action cannot be located. Petitioner has also provided a copy of the file jacket and docket report.

Petition to revive under 37 CFR 1.137(a)

A grantable petition under 37 C.F.R. § 1.137(a) must be accompanied by:

(1) the required reply,[1]

(2) the petition fee,

(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) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (3).

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a).

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 Director to have been "unavoidable." See, 37 C.F.R. § 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 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).

Petitioner's argument of non receipt of the Ex Parte Quayle Action has been considered but is not persuasive. The Ex Parte Quayle Action was mailed to the correspondence address of record on August 28, 2006. A review of the record shows the address provided on the petition differs from the correspondence address of record. Further, the record shows that Michael Schwartz has not been authorized to prosecute the application. Petitioner has not overcome the presumption that the Action was not received because petitioner failed to promptly change the correspondence address.

---

[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.

Where an application becomes abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c).

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to Petitioner.

Alternative Venue

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 C.F.R. § 1.137(b) must be accompanied by the required reply, the required 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 pursuant to 37 C.F.R. § 1.137(b) was unintentional.

The filing of a petition under 37 C.F.R. § 1.137(b) cannot be intentionally delayed, and therefore, must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. § 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 C.F.R. § 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 delivery service:
(FedEx, UPS, DHL, etc.)

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Michael A. Schwartz
Bingham McCutchen LLP
2020 K. Street N.W.
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Swidler Berlin Shereff Friedman, LLP
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Washington DC 20007-5116

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Ono et al.
Application No. 10/798,851
Filed: March 12, 2004
Attorney Docket No. 19546.0044

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed August 13, 2007, to revive the above-identified application.

The petition is **GRANTED.**

This above-identified application became abandoned for failure to timely file a reply to the Ex Parte Quayle Action of August 28, 2006. The Ex Parte Quayle Action set a two (2) 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 October 29, 2006. An untimely response was submitted on March 30, 2007. A Notice of Abandonment was mailed on April 2, 2007. A petition was dismissed on May 11, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of amendment; (2) the petition fee of $500; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

A review of the record shows deposit account 50-4047 was inadvertently charged $1500.00 for the unintentional petition fee. Accordingly the fee will be refunded.

It should further be noted petitioner states a change of address was submitted via the EBC to change the address associated with customer no.23517. A review of the record shows that the address has not been updated.

This application is being referred to Art Unit 3661.

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Bingham McCutchen
2020 K. Street, N.W.
Washington, D.C. 20006

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TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE, SUITE 2000
CHICAGO IL 60601

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of :
ELESH, et al. :
Application No. 10/798,854 :
Filed: March 11, 2004 :
Attorney Docket No. 201300-9031 :

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 9, 2006.

The request is **APPROVED**.

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

The request was signed by Larry L. Saret on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JAMES N. ELESH**
2500 MCDANIEL AVENUE
EVANSTON, IL 60201

cc: **SACHNOFF & WEAVER LTD**
10 SOUTH WACKER DRIVE
CHICAGO, IL 6060-7507

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/798,854	03/11/2004	James N. Elesh	201300-9031

CONFIRMATION NO. 6666

OC000000021976317

1131
MICHAEL BEST & FRIEDRICH LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
CHICAGO, IL 60601

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2006.

- 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.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Evan Pennell	: DECISION ON REQUEST FOR
Patent Number	: 7617607	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,864	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **447** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Glenn F. Evans	: DECISION ON REQUEST FOR
Patent Number	: 7649539	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/798,874	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUL 2 2 2004

DCM

In re Application of
Kurtis C. Kelley, et al.
Serial Number: 10/798,875
Filed: March 12, 2004
For: BATTERY INCLUDING CARBON FOAM CURRENT COLLECTORS

PETITION UNDER M.P.E.P.708.02 V AND VI

This is in response to the petition filed June 4, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 V and VI of the MPEP and 37 CFR 1.102(c) **(no fee required)**.

The request for Special Status considered under Section 708.02 V and VI is granted because criteria under 37 CFR 1.102(c) has been met.

Accordingly the petition is **GRANTED.**

Marian C. Knode

Marian C. Knode, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 300
Mclean, VA 22102

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JAN 31 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark Beckmann et al.	:	
Application No. 10/798,883	:	DECISION ON PETITION
Filed: March 12, 2004	:	TO WITHDRAW
Attorney Docket No. 449122068000	:	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 31, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bell, Boyd & Lloyd, LLP**
P.O. Box 1135
Chicago, IL 60690

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JAMES C. WRAY
1493 CHAIN BRIDGE ROAD
SUITE 300
MCLEAN, VA 22101

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MAY 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Evans et al.	:	
Application No. 10/798,892	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. UNION STREET	:	

This is a decision on the petition, filed February 22, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on April 27, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 1, 2005 accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 3650 for examination in due course.

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

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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
Smolinske, et al. : DECISION ON PETITION
Application No. 10/798,926 :
Filed: March 11, 2004 :
Docket No.: CE1125R :

This decision is in response to the petition under 37 CFR 1.181 filed September 13, 2006 to withdraw the holding of abandonment under 37 CFR 1.181.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed November 14, 2005. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 13, 2006.

Petitioners assert non-receipt of the non-final Office action mailed November 14, 2005.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof he Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 2600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

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JUN 02 2008

In re Application of :
Dana Scott ATKINSON :
Application No. 10/798,958 : DECISION ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 10174/00003 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 11, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3745 for appropriate action by the Examiner in the normal course of business on the reply received February 14, 2008.

April Wise
Petitions Examiner
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

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APR 20 2005

OFFICE OF PETITIONS

In re Application of :
Veselov et al. :
Application No. 10/798,981 :
Filed: March 11, 2004 : ON PETITION
Title of Invention: :
PROVISIONING TO CDC DEVICES :

This is in response to a petition under 37 CFR 1.47(a), filed August 31, 2004, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s). The delay in treating this petition is regretted.

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", 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 March 11, 2004, without a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on May 8, 2004, requiring *inter alia*, a fully executed oath or declaration.

In response to the Notice, Applicant files the instant petition under 37 CFR 1.47(a), and avers that the nonsigning inventor cannot be located.

In support of the petition the Applicant provides a Declaration of Facts of Michael L. Gencarella, Esq., wherein it is averred that a a transmittal letter and declaration and power of

attorney were sent to the nonsigning inventor via Federal Express on June 14, 2004. Thereafter, on July 13, 2004, a Certified letter was sent to the nonsigning inventors (at the same mailing address), along with an additional Declaration and Power of Attorney, and a copy of the June 14, 2004 correspondence. No response has been received.

Applicable Law

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

As to item (1), Applicant is advised that there are two situations provided for: a) where an inventor refuses to sign the application papers, and b) where an inventor cannot be found or reached after diligent effort.

Here, Applicant alleges that the inventor cannot be found or reached.

As to item (1), if an inventor is unavailable (cannot be reached), while it is not required that the application (specification, claims and drawings), be mailed to the inventor, Applicant must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor[1]. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). *At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions*

[1] Conversly, where it is alleged that an applicant refuses to join an application (the inventor's whereabouts are known), the applicant must establish that the nonsigning inventor was presented with the application for signature.

where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. (Emphasis supplied). It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

As to item (1), applicant failed to show or provide proof of diligent effort in trying to find or reach the nonsigning inventor.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of :
Veselov et al. :
Application No. 10/798,981 :
Filed: March 11, 2004 : ON PETITION
Title of Invention: :
PROVISIONING TO CDC DEVICES :

This decision is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a) to Apply on Behalf of Omitted Inventor, filed June 23, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Dianna L. Decristo, cannot be found or reached after diligent effort.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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DIANNA L. DECRISTO
710 4TH AVENUE #6
VENICE, CA 90291

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of :
Veselov et al. :
Application No. 10/798,981 :
Filed: March 11, 2004 : LETTER
Title of Invention: :
PROVISIONING TO CDC DEVICES :

Dear Mr. DeCristo:

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

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

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

Derek L. Woods
Attorney
Office of Petitions

cc: MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of :
Yamamoto et al. :
Application No. 10/799,013 : DECISION ON PETITION
Filed: 11 March, 2004 :
Atty Docket No. 16869B-016810US :

This is a decision on the petition filed on 9 June, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 18 July, 2005, for failure to file a proper reply to the non-final Office action mailed on 17 March, 2005, which set a three (3) month shortened statutory period for reply. A one (1) month extension of time under 37 CFR

[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)).

1.136(a) was filed on 20 July, 2005 (certificate of mailing date 18 July, 2005). Notice of Abandonment was mailed on 13 March, 2006.

Petitioners have filed an amendment as the required reply.

This application is being referred to Technology Center 2189 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OCT 13 2004

OFFICE OF PETITIONS

In re Application of :
Michel Gilbert et al :
Application No. 10/799,016 : NOTICE
Filed: March 11, 2004 :
Attorney Docket No. 019633-000912US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1645.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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*LUXTERA, INC. ATTN: BOB ARIS
1819 ASTON AVENUE
STE 102
CARLSBAD CA 92008

COPY MAILED

DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Lawrence C. Gunn II, et al :
Application No. 10/799,040 : DECISION GRANTING PETITION
Filed: March 11, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. LUX-P026 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

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

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

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DENNIS S. FERNANDEZ
1047 EL CAMINO REAL, SUITE 201
MENLO PARK, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

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JUL 20 2010

OFFICE OF PETITIONS

In re Application of :
Cole, et al. :
Application No. 10/799,052 : DECISION ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. YOR920030610US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 7, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed January 7, 2010. Accordingly, the date of abandonment of this application is April 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: RYAN MASON AND LEWIS LLP
1300 POST RD STE 205
FAIRFIELD, CT 06824

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jones, Walker, Waechter, Poitevent,
Carrere & Dengre, L.L.P.
4th Floor
8555 United Plaza Boulevard
Baton Rouge, LA 70809

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert C. Schucker	:	
Application No. 10/799,076	:	DECISION ON PETITION
Filed: March 12, 2004	:	TO WITHDRAW
Attorney Docket No. 18056/101306-00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 27, 2006.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer Number 33222 has been revoked by the assignee of the patent application on December 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Winstead Sechrest & Minick P.C.**
P.O. Box 50784
Dallas, TX 75201

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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: OSAKI
Application No. 10/799,086
Filed: March 11, 2004
For: METHOD AND APPARATUS FOR CRYPTOGRAPHIC CONVERSION IN A DATA STORAGE 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 05 May 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **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
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P.O. Box 1450
Alexandria, VA 22313-1450
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BROUSE MCDOWELL
A LEGAL PROFESSIONAL ASSOCIATION
388 SOUTH MAIN STREET, SUITE #500
AKRON, OH 44311-4407

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MAY 0 4 2007

OFFICE OF PETITIONS

In re Application of :
GUYTON, et al. :
Application No. 10/799,117 :
Filed: March 12, 2004 :
Attorney Docket No. 30011.24987 :

DECISION ON PETITION

The above-identified application has been referred to the Office of Petitions for consideration of a petition under 37 CFR 1.137(b) to revive the above-identified application filed October 6, 2006.

The petition is **GRANTED**.

A review of the record discloses that the application became abandoned for failure to respond to the Final Office action mailed on March 24, 2006. On October 6, 2006, the present petition was filed, along with a Request for Continued Examination (RCE) under 37 CFR 1.114. It is noted that, while there was no decision on the petition to revive, the U.S. Patent and Trademark Office (USPTO), nonetheless, processed the untimely RCE. In fact, a non-final Office action was mailed on October 18, 2006, to which applicant responded on February 22, 2007.

Since the petition is found to be in compliance with 37 CFR 1.137(b), the petition is being treated as having been granted prior to the mailing of the October 18, 2006 Office action. Accordingly, this decision ratifies the ensuing prosecution.

The application is being referred to the Technology Center Art Unit 3636 for consideration of the response filed February 22, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Emerson, Thomson & Bennett, LLC
777 W. Market Street
Akron OH 44303

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of :
Guyton, et al. :
Application No. 10/799,117 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 30011.24987 :
For: SELF-CONTAINED AIR LIFTED SEAT APPARATUS

This is a decision on the petition under 37 CFR 1.181, filed May 14, 2008, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

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

This application became abandoned as a result of petitioner's failure to 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 August 16, 2007 (certificate of mailing date August 14, 2007), and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 15, 2007. *See* MPEP 1215.04.

Petitioners argue that because a timely and proper response to the May 14, 2007 final Office action was filed, that the holding of abandonment should be withdrawn.

37 CFR 41.37(a) provides 2 months from the date of the notice of appeal for the appellant to file an appeal brief and the appeal brief fee set forth in 37 CFR 41.20(b)(2). Petitioners are informed that the application became abandoned because an appropriate follow-up submission to the August 16, 2007(certificate of mailing date August 14, 2007) Notice of Appeal was not filed within an extendable two month period from the Notice of Appeal's filing. It was petitioners responsibility to file an appropriate follow-up submission to the August 16, 2007(certificate of mailing date August 14, 2007) Notice of Appeal. Petitioner did not do so.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is DISMISSED. A Rule 181 petition is feeless. The $400.00 petition fee will be credited to deposit account no. 50-4538.

Petitioners are encouraged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Akron OH 44303

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OFFICE OF PETITIONS

In re Application of :
Guyton, et al. :
Application No. 10/799,117 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 30011.24987 :
For: SELF-CONTAINED AIR LIFTED SEAT APPARATUS

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 2008, requesting revival of the above-identified application.

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

This application became abandoned as a result of petitioners' 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 August 16, 2007 (certificate of mailing date August 14, 2007), and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on October 15, 2007. *See* MPEP 1215.04.

Applicants have submitted an Appeal Brief, an acceptable statement of the unintentional nature of the delay in filing the Appeal Brief, and authorization to charge the $1,540.00 petition fee. The fee is being charged to petitioners' deposit account.

After the mailing of this decision, the file will be forwarded to Technology Center AU 3636 for consideration of the Appeal Brief.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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AVAGO TECHNOLOGIES, LTD.
P. O. BOX 1920
DENVER, CO 80201-1920

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APR 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Rizal Jaffar et al	:	
Application No. 10/799,126	:	DECISION GRANTING PETITION
Filed: March 11, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 70040126-1	:	

This is a decision on the petition, filed April 24, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 3, 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 2878 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\Apr10\799126.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

Date : April 25, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/799,126**

Applicant(s) : Rizal Jaffar et al
Application No. : 10/799,126
Filed : March 11, 2004

The above-identified application has been assigned Patent No. 7,214,923 and an issue date of May 8, 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 May 8, 2007:

"All reference to Patent No. 7,214,923 to Rizal Jaffar et al of Malaysia for LIGHT PWM CONVERTER appearing in the Official Gazette of May 8, 2007 should be deleted since no patent was granted."

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Bradley Harris
Kimberly Terrell
Kay Pinkney

UNITED STATES PATENT AND TRADEMARK OFFICE

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THELEN REID BROWN RAYSMAN & STEINER LLP
2225 EAST BAYSHORE ROAD
SUITE 210
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of

SOREK, Noam et al.
Application No. 10/799,127
Filed: March 11, 2004
Attorney Docket No. **61343.00005**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 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 Aaron Wininger on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to 571-272-4231 at Michelle R. Eason.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **NOAM SOREK**
15 HANOTRIM STREET
ZICHRON YAACOV, 30900
ISRAEL

cc: **MR.GUY YONAY**
PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/799,127	03/11/2004	Noam Sorek	61343.00005

CONFIRMATION NO. 8242

OC000000025164986

70416
THELEN REID BROWN RAYSMAN & STEINER LLP
2225 EAST BAYSHORE ROAD
SUITE 210
PALO ALTO, CA 94303

Date Mailed: 08/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/22/2007.

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

Michelle R. Eason

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

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COMMISSIONER FOR PATENTS
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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

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AUG 15 2008

In re Application of :
Noam Sorek, et al. :
Application No. 10/799,127 : DECISION ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. None :

This is a decision in response to the communication, filed August 7, 2007, entitled "Request to Correct the Error in Spelling of Inventor Name," which is properly being treated as a petition under 37 CFR 1.182.

The petition is DISMISSED since the petition was not accompanied by payment of the required fee.

Before a decision on the petition can be rendered, the $400 petition fee required under 37 CFR 1.17(f) must be submitted. Petitioner is also encouraged to submit a supplemental Application Data Sheet (ADS) in accordance with 37 CFR 1.33(b). (See MPEP 601.05 and 605.04(b))

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT COUNSEL
SCHLUMBERGER RESERVOIR COMPLETIONS
SCHLUMBERGER TECHNOLOGY CORPORATION
P.O. BOX 1590
ROSHARON, TX 77583-1590

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JUL 0 2 2004
OFFICE OF PETITIONS

In re Application of	:	
Thomas Michael Deaton	:	
Application No. 10/799,152	:	DECISION REFUSING STATUS
Filed: March 12, 2004	:	UNDER 37 CFR 1.47(b)
For: VALVE CLOSING DEVICE	:	
	:	

This is in response to the petition under 37 CFR 1.47(b), filed March 12, 2004.

The petition is dismissed.

Rule 47 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).

The above-identified application was filed on March 12, 2004 without an executed oath or declaration and naming Thomas Michael Deaton as the sole inventor. A petition under 37 CFR 1.47(b) was filed with the application on March 12, 2004.

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 item (3), as set forth above.

As to item (3), the required $130.00 petition fee has not been submitted, nor is an authorization to charge a deposit account for the fee found in the application papers. As such, the petition can not be reviewed on the merits at this time.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

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

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries should be directed to the undersigned at (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
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HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of :
Chikara Ishizaka et al :
Application No. 10/799,153 : ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 81864.0034 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on July 3, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 1742 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 19 2004

Director's Office
Group 3700

Donald E. Donnelly
1332 Remington Oaks Terr
Fenton, MO 63026

In re application of
Donald E. Donnelly

Serial Number: 10/799159
Filed: March 12, 2004

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **APPARATUS & METHOD FOR SHUTTING DOWN FUEL FIRED APPLIANCE**

This is a decision on the petition filed on March 12, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(703) 308-0975

rt: 7/15/04

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MEYER UNKOVIC & SCOTT LLP
1300 OLIVER BUILDING
PITTSBURGH, PA 15222

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JAN 28 2005

OFFICE OF PETITIONS

In re Application of :
Fan Gao Wen and David Sue San Ho :
Application No. 10/799,161 : NOTICE
Filed: March 12, 2004 :
Attorney Docket No. 274751.104 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to the Office of Initial Patent Examination for further preexamination processing.

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

Attachment: Corrected Filing Receipt

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KING & SPAULDING LLP
1180 PEACHTREE STREET
ATLANA, GA 30309-3521

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of
John W. Holaday et al
Application No. 10/799,163
Filed: March 12, 2004
Attorney Docket No. 05213-0077
(13663.105206)

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 18, 2006 and resubmitted on January 16, 2007, which is being treated as a petition to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/US00/06320, filed September 14, 2000, and as a petition to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to prior filed provisional Application No. 60/077,460, filed March 10, 1998, as set forth in the accompanying 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 (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 where there is a question whether the delay was unintentional.

The petition fails to currently satisfy item (1) above. In this regard, the amendment to claim benefit of priority to international Application No. PCT/US00/06320 improperly sets forth the filing date of the application. More specifically, the amendment indicates that the filing date of the PCT application is September 14, 2000, whereas, the correct filing date is March 10, 2000.

Accordingly, an amendment which properly sets forth the filing date of the PCT application, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

It is further noted in a review of the computer database records that Application No. 09/265,213 fails to disclose the presence of a proper chain for benefit of priority to the prior-filed applications noted in the amendment. More specifically, Office database records do not reflect that Application No. 09/265,213 has claimed benefit of priority to Application No. 08/467,101 and the other applications in the chain; namely, Application Nos. 08/271,557 and 08/068,717.

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 Section 201.06(d).

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
Petitions Examiner
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

LANE PATENTS LLC
100 NORTH 72ND AVE.
SUITE 107
WAUSAU WI 54401

In re Application of:
Diana L. Lane, et al.
Serial No.: 10/799,174
Filed: March 12, 2004
Attorney Docket Number: **06_SAF_27**
Title: METHOD AND APPARATUS FOR IDENTIFYING A MISSING INDIVIDUAL

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on January 4, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; and because the petition was not filed together with the application on or after August 25, 2006. See also MPEP 708.02 .

For the above-stated reasons, the petition is denied. Therefore, the file will be taken up by the examiner in its regular turn. A review of the file finds that a non-final Office action was mailed on February 5, 2007.

Any inquiry regarding this decision should be directed to Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

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Paper No.

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

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OFFICE OF PETITIONS

In re Application of	:	
Hisayoshi Mizuhara, et al.	:	
Application No. 10/799,175	:	DECISION ON PETITION
Filed: March 12, 2004	:	PURSUANT TO
Attorney Docket No.:	:	37 C.F.R. § 1.137(B)
021964/337034	:	
Title: SLIDE FASTENER WITH	:	
SEPARABLE BOTTOM END STOP	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed February 4, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

This 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 October 20, 2005, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, this application

---

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 37 C.F.R § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R § 1.20(d)) required pursuant to paragraph (d) of this section.

became abandoned on January 21, 2006. A notice of abandonment was mailed on May 25, 2006.

With this petition, Petitioner has submitted the petition fee, the proper statement of unintentional delay, a Request for Continued Examination (RCE), an amendment, and the proper statement of unintentional delay. No terminal disclaimer is required.

The fee that is associated with the filing of a RCE will be charged to Petitioner's Deposit Account, as authorized, in due course.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

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 submitted on January 22, 2008 - 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.

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Harry E. Hagaman
P.O. Box 1229
Healdsburg, CA 95448

In re application of
Harry Edward Hagaman
Application No. 10/799,219
Filed: March 12, 2004
For: METHOD OF BUILDING

: DECISION ON PETITION
: TO MAKE SPECIAL
: (ENVIRONMENT) OR (ENERGY)
:

This is a decision on the petition filed on May 19, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section V: Environmental Quality, or alternatively, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition includes a statement by applicant, Mr. Harry E. Hagaman. Mr. Hagaman states that "the invention of the above application is an improved method of building employing fibrous materials that are often considered refuse materials though which have excellent insulation characteristics." He goes on to say that "(t)he invention provides a more sustainable way to build then(sic) is currently available in the building arts because by using these plentiful fibrous materials other natural resources are saved while at the same time achieving a higher insulation value. The higher insulation value which is achieved at a substantial saving in resources and other construction expenses also generates heating and cooling energy reductions (emphasis added)."

For the above stated reasons, the petition is **GRANTED.**

In view of the granting of the Petition to make Special based upon energy, any determination of the Environmental Quality grounds for making the application special is now moot and thus will not be treated on those grounds.

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

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

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

KJD/rwg: 11/03/04

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Paper No. 110104

NOV 3 2004

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

In re Application of:
COLLEEN A. BARTON et al.
Serial No.: 10/799,229
Filed: March 11, 2004
Attorney Docket No.: **3700P002XC**

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 October 12, 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 Tarek N. Fahmi, on behalf of himself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Maden, Mossman & Srirm, P.C., at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Lissi Marquis at (571) 272-1596.

Lissi Marquis, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: MADEN, MOSSMAN & SRIRM, P.C.
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057

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MADEN, MOSSMAN & SRIM, P.C.
2603 AUGUSTA, SUITE 700
HOUSTON TX 77057

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OFFICE OF PETITIONS

In re Application of :

BARTON, Colleen A. :
Application No. 10/799,229 : DECISION ON PETITION
Filed: March 11, 2004 : TO WITHDRAW
Attorney Docket No. **3700P002XC** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 26, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CHARLES R. SCHWEPPE**
8100 CYPRESSWOOD DRIVE
APT. NO. 721
SPRING, TX 77379-7190

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PATRICIA A. SHEEHAN
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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OFFICE OF PETITIONS

In re Application of	:	
Yeh et al.	:	
Application No. 10/799,232	:	DECISION ON PETITION
Filed: March 12, 2004	:	
Attorney Docket No. STL11732	:	

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

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment and Drawings, (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 2112 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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GUNN, LEE & HANOR
700 N. ST. MARY'S STREET
SUITE 1500
SAN ANTONIO TX 78205

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OFFICE OF PETITIONS

In re Application of :
Dunn et al. :
Application No. 10/799,247 : ON PETITION
Filed: March 12, 2004 :
Title: Semi-Permanent Reference Electrode :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 11, 2006. In the alternative petitioner has requested the petition be treated under 37 CFR 1.137(b).

The petition to withdraw the holding of abandonment is **Dismissed**.
The petition to revive under 37 CFR 1.137(b) is **Granted**.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on May 27, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. A Notice of Incomplete Reply was also mailed on May 27, 2004 indicating that a reply was received on April 27, 2004 but the late filing fee or oath or declaration surcharge had not been submitted. 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 28, 2004. A Notice of Abandonment was mailed on March 28, 2006.

Petitioner contends that a Combined Declaration and Power of Attorney was filed on April 27, 2004, a month before the issuance of the Notice to File Missing Parts. Petitioner acknowledges a declaration was not submitted upon the filing of the application on March 12, 2004, but contends since it was filed prior to the Notice to File Missing Parts it was timely.

Petitioner's argument has been considered, but is not persuasive. Pursuant to 35 USC 111 (a)(3), the application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Director.

A nonprovisional application, other than a CPA filed under 37 CFR 1.53(d), is entitled to a filing date as of the date of receipt of the specification, including claims, and any required drawing. See 37 CFR 1.53(b). The filing receipt will be mailed at the time a

determination is made that the application meets the minimum requirements to receive a filing date. The oath or declaration, basic filing fee, and for nonprovisional applications filed on or after December 8, 2004, search fee and examination fee as set forth in 37 CFR 1.16, may be filed later than the remaining application papers, but if so, they must be accompanied by the required surcharge. MPEP § 503.

Accordingly, since petitioner did not submit the declaration on March 12, 2004, the declaration required a surcharge. Further a review of the record shows a general authorization to charge fees to a deposit account was not available. As such the application was properly abandoned.

Alternative Venue

In the alternative, petitioner has requested the above petition be treated under 37 CFR 1.137(b).

The requirements for the filing of 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.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Douglas J. Sanchez	: DECISION ON REQUEST FOR
Patent Number	: 7577599	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/799,254	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **643** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SALT LAKE CITY, UT 84110

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Alan G. Wood :
Application No. 10/799,258 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 2825.13US (90-0051.15/US)

This is a decision on the petition filed, June 9, 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 20, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Alan G. Wood et al :
Application No. 10/799,258 : DECISION ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. :
2825.13US (90-0051.15/US)

This is a decision on the petition under 37 CFR 1.137(b), filed July 27, 2007, 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 June 28, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 28, 2007. Accordingly, the date of abandonment of this application is June 29, 2007.

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

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Philip H. Schlazer
Energy Conversion Devices, Inc.
2956 Waterview Drive
Rochester Hills MI 48309

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of	:	
Lowrey et al.	:	
Application No. 10/799,265	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	
Attorney Docket No. 2024.46	:	

This is a decision on the petition filed June 16, 2004, requesting that the above-identified application be accorded a filing date of March 12, 2004, with Figure 5B described in the specification as part of the original disclosure.

On March 12, 2004, applicants filed the above-identified application. On May 27, 2004, the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of March 12, 2004, and advising applicants that Figure 5B appeared to have been omitted. Additionally, the Notice indicated that applicants must submit a new oath or declaration, which identifies the citizenship of each inventor.

In response, on June 16, 2004, applicants filed the present petition and a copy of applicants' postcard receipt, acknowledging receipt of 26 pages of drawings on March 12, 2004. Additionally, applicants submitted 1 sheet of drawings, including Figure 5B.

Upon review of the record, Figure 5B, deposited on March 12, 2004, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 12, 2004, included Figure 5B, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including Figure 5B, was complete on filing and will be granted a filing date of March 12, 2004.

Accordingly, the petition is granted.

The requirement for the submission of omitted drawing Figure 5B was sent in error and is hereby vacated. Accordingly, the $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 05-1068.

Applicants are reminded that they must submit a new oath or declaration, which identifies the citizenship of each inventor within the time period set forth in the Notice of May 27, 2004, to avoid abandonment of the application.

The Office of Initial Patent Examination is directed to accord the above-identified application a filing date of March 12, 2004, using the 25 sheets of drawings submitted on March 12, 2004, and the 1 sheet of drawings (Figure 5B) submitted with the present petition as part of the original disclosure.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Pearne & Gordon LLP
1801 East 9th Street
Suite 1200
Cleveland, OH 44114-3108

Mail Date: 04/20/2010

Applicant	: Massimo Rossi	: DECISION ON REQUEST FOR
Patent Number	: 7592377	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/799,269	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **626** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VISTA IP LAW GROUP LLP/BSC - NEUROMODULATION
2040 MAIN STREET, Suite 710
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Robert J. Garabedian	: DECISION ON REQUEST FOR
Patent Number	: 7590454	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/799,271	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **785** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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L'OREAL USA/ PATENT DEPARTMENT
30 TERMINAL AVENUE
CLARK NJ 07066

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OFFICE OF PETITIONS

In re Application of	:	
Murat Quadir	:	
Application No. 10/799280	:	ON PETITION
Filing or 371(c) Date: 03/12/2004	:	
Attorney Docket Number:	:	
LOREAL 3.0-005 II	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), April 6, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed July 14, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on August 15, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition and response to the Office communication. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Restriction/Election Requirement; (2) the petition fee; and (3) the required statement of unintentional delay) are filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center Art Unit 1614 for processing of the response in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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WHYTE HIRSCHBOECK DUDEK S.C.
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

In re Application of	:	
Stephen L. James, et al.	:	
Application No. 10/799,296	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MTI-31714-A	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 2, 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 2814 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.*

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CARL M. NAPOLITANO, PH.D.
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.
255 SOUTH ORANGE AVE., SUITE 1401
P.O. BOX 3791
ORLANDO, FL 32802-3791

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OFFICE OF PETITIONS

In re Application of :

MORRIS, et al. :
Application No. 10/799,312 : DECISION ON PETITION TO
Filed: March 12, 2004 : WITHDRAW FROM RECORD
Attorney Docket No. 30862.CIP :
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 24, 2008.

The request is APPROVED.

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

The request was signed by Carl M. Napolitano on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed June 26, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: ROGER MORRIS
591 COTTONWOOD ROAD
SEBASTIAN, FL 32958

cc: XL TECHGROUP, INC
C/O DAVID SZOSTAK
1901 S. HARBOR CITY BLVD, SUITE 300
MELBOURNE, FL 32901

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/28/2010

Applicant	: Doug Wroblewski	: DECISION ON REQUEST FOR
Patent Number	: 7658043	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/799,340	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1413** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PATENT GROUP, WORLD TRADE CTR. WEST
155 SEAPORT BLVD.
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of
Kevin J. Dowling et al
Application No. 10/799,348
Filed: March 12, 2004
Attorney Docket No. CKB-122.01

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 28, 2005, 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 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 instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional applications as required by 37 CFR 1.78(a)(5)(ii). Additionally, intermediate Application No. 09/213,189, was filed within twelve months of the filing date of the prior-filed provisional applications, for which priority is claimed.

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 above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title and in an Application Data Sheet, 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 above-noted, prior-filed nonprovisional 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 not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

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 3739 for appropriate action on the amendment submitted July 28, 2005, including consideration by the examiner of the claim under 35 U.S.C. §120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and

for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Karen Creasy

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

ATTACHMENT : Corrected Filing Receipt

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708 THIRD AVENUE
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of :
David Hoerl :
Application No. 10/799,349 :
Filed: March 13, 2004 :
Attorney Docket No. 644-053 :

ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed May 23, 2005, requesting that the above-identified application be accorded a filing date of March 12, 2004, rather than the presently accorded filing date of March 13, 2004. The petition was recently forwarded to this office for consideration.

Petitioners allege that the application was deposited in Express Mail service on March 12, 2004. In support, the petition is accompanied by a copy of the "United States Postal Service Track/Confirm Receipt" for Express Mail label no. ET547828495US (the same Express Mail number found on the original application papers located in the official file) showing the item was placed in USPS Express Mail service on March 12, 2004. Additionally, petitioner has also submitted a declaration from David M. Hill, Esq.

Paragraph (c) of 37 CFR 1.10 states that:

> "Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit."

A grantable petition under 37 CFR 1.10(c) must include "a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit." *See* 37 CFR 1.10(c)(3).

As the required true copy of the Express Mail label showing the "date-in" has not been submitted, the petition must be dismissed. However, this decision is made without prejudice to reconsideration. Petitioner should submit a request for reconsideration that includes the required true copy of the Express Mail label showing the "date-in".

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

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

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WARD & OLIVO
708 THIRD AVENUE
NEW YORK, NY 10017

In re Application of :
David Hoerl :
Application No. 10/799,349 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 644-053 :

This is a decision on the renewed petition under 37 CFR 1.10(c), filed April 25, 2006 (Certificate of Mailing date: April 19, 2006), requesting that the above-identified application be accorded a filing date of March 12, 2004, rather than the presently accorded filing date of March 13, 2004.

Petitioners allege that the application was deposited in Express Mail service on March 12, 2004. In support, the petition is accompanied by a copy of the "USPS Track & Confirm Results" for Express Mail label no. ET547828495US (the same Express Mail number found on the original application papers located in the official file) showing the item was placed in USPS Express Mail service on March 12, 2004.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of March 12, 2004.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of March 12, 2004 and issuance of a corrected filing receipt.

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/799,349	03/12/2004	2616	549	644-053	7	31	3

CONFIRMATION NO. 6376

Ward & Olivo
708 Third Avenue
New York, NY 10017

CORRECTED FILING RECEIPT

OC000000018727400

Date Mailed: 05/09/2006

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)

David Hoerl, Warren, NJ;

Power of Attorney:

John Ward–33811
John Olivo–35634
David Hill–46170

Domestic Priority data as claimed by applicant

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 05/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/799,349

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Switchless KVM network with wireless technology

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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ALEXANDRIA, VA 22313-1450
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APR -7 2005

In re Application of	:	
Edward J. Domanico	:	
Serial No. 10/799,350	:	DECISION ON PETITION
Filed: March 12, 2004	:	TO MAKE SPECIAL
For: FLUORESCENT LAMP DISPOSAL SYSTEM	:	

Applicant's petition, filed March 10, 2005, seeks to have this application made special because of the applicant's health, MPEP 708.02(III). The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(III) of the Manual of Patent Examining Procedures (MPEP).

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Daniel S. Polley, P.A.
1215 East Broward Boulevard
Fort Lauderdale, FL 33301

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06-05-09

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/799353 Patent No.: 7376689

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Angela Green
Certificates of Correction Branch
703-756-1541

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: _____

LEWIS A. BULLOCK, JR.
SUPERVISORY PATENT EXAMINER

SPE 2193 **Art Unit**

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MICHAEL C. KING
LAW OFFICES OF RONALD M. ANDERSON
600 - 108TH AVENUE, NE, SUITE 507
BELLEVUE, WA 98004

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Phillip Burwell et al	:	
Application No. 10/799,357	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CHEN0189	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an executed oath/declaration and filing fees; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 28, 2004 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $510 extension of time submitted with the petition on February 7, 2005 was subsequent to the maximum extendable period for reply, the fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of :
BOLCHAKOVA, et al. :
Application No. 10/799,369 : DECISION ON PETITION
Filed: March 12, 2004 : TO WITHDRAW
Attorney Docket No. **1560.002US1** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 9, 2007.

The request is **APPROVED**.

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

The request was signed by Robin A. Chadwick on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed February 15, 2007 that requires a reply from the applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ELENA V. BOLCHAKOVA**
5866 CARMEL WAY
UNION CITY, CA 94587

cc: **DEBORAH A. MOJARRO**
APPLERA CORPORATION
APPLIED BLOSYSTEMS DIVISION M/S 432-2
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

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ELENA V. BOLCHAKOVA
5866 CARMEL WAY
UNION CITY, CA 94587

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of :
BOLCHAKOVA, et al. :
Application No. 10/799,369 :
Filed: March 12, 2004 :
Attorney Docket No. **1560.002US1** :

DECISION ON REQUEST FOR REVOCATION OF POWER OF ATTORNEY

CORRECTED DECISION

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 16, 2006.

The request is **APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MILA KASAN PATENT DEPT.**
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

Hi Monica

PLEASE MAKE THE CORRECTION
FOR THE FOLLOWING
DATE: 6/26/07

( ) Application number on the count sheet is does not match the decision.

( ) The count sheet decision and / or decision type does not match decision.

( ) Petition filing date is incorrect.

( ) Please sign the decision.

( ) There is no decision in the red folder.

(✓) Please provide the count sheet.

( ) The application number on the second, third, etc. page does not match the first page.

( ) Please provide (2) copies of the petition for finance.

( ) Please provide the WFEE sheet.

( ) Please provide the refund sheet.

( ) Please provide fee processing sheet.

( ) The deposit account has an insufficient funds.

( ) The authorized user and / or company is not listed on the account.

( ) The deposit account number is incorrect.

( ) The deposit account is not active.

( ) The fee code does not match the amount to be charged.

Corrected
Thank You,
Monica

Please return file to :

Alicia Kelley ✓

Chhivindavy Khlok

Kim Kiep

Gloria Arias

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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Mail Date: 07/28/2010

Applicant	: Bernard Kasser	: DECISION ON REQUEST FOR
Patent Number	: 7653946	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/799,371	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1718** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

KELLEY DRYE & WARREN LLP
400 ATLANTIC STREET
13TH FLOOR
STAMFORD CT 06901

In re Application of :
Andrew Greene :
Application No. 10/799,390 : DECISION ON PETITION
Filed: March 12, 2004 : TO WITHDRAW
Attorney Docket No. CBSI-101(US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 19, 2007.

The request is **NOT APPROVED**.

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

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

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

There 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: NATHAN D. WEBER, ESQ.
KATTEN MUCHIN & ROSENMAN, LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET
13TH FLOOR
STAMFORD, CT 06901

In re Application of :
Andrew Greene :
Application No. 10/799,390 : DECISION ON PETITION
Filed: March 12, 2004 : TO WITHDRAW
Attorney Docket No. CBSI-101(US) : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 15, 2007.

The request is **APPROVED**.

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

The request was signed by Steven J. Moore on behalf of all attorneys of record who are associated with customer No. 47670.

All attorneys/agents associated with the Customer Number 47670 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: ANDREW GREENE
200 WILLETS LANE
JERICHO, NY 11753

cc: NATHAN D. WEBER, ESQ.
KATTEN, MUCHIN & ROSENMAN, LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of Rhee et al. :
Application No. 10/799,396 : Decision on Petition
Filing Date: March 12, 2004 :
Attorney Docket No. AB-1355 US :

This is a decision on the petition under 37 CFR 1.137(b), filed May 26, 2006, to revive the above-identified application.

The petition is **granted**.

A final Office action was mailed November 22, 2005. Less than two months later, a reply was filed on January 20, 2006. An advisory action was mailed February 28, 2006. The application became abandoned as of midnight on February 28, 2006.

The instant petition requests revival of the application.

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

A terminal disclaimer is unnecessary when reviving a utility application filed on or after June 8, 1995. Therefore, the $130 fee will be credited back to petitioner's deposit account.

The Notice of Appeal filed May 26, 2006, has been entered and made of record. The extendable 2-month time period for filing the appeal brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

Technology Center Art Unit 2871 will be informed of the instant decision and the "Pre-Appeal Brief Request for Review" filed May 26, 2006, will be entered and considered by the examiner in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

GENERAL MILLS, INC.
P.O. BOX 1113
MINNEAPOLIS MN 55440

In re Application of :
Soumya Roy, et al. :
Application No. 10/799,397 : DECISION ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 6357US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 3, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 4, 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 $1500, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1761 for appropriate action by the Examiner in the normal course of business on the reply received August 31, 2007

April M. Wise
Petitions Examiner
Office of Petitions

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Thomas M. Freiburger
P.O. Box 1026
Tiburon, CA 94920

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OFFICE OF PETITIONS

In re Application of Lovoi et al. :
Application No. 10/799,450 : Decision on Petition
Filing Date: March 13, 2004 :
Attorney Docket No. 688P :

This is a decision on the petition, filed November 21, 2005, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the USPTO of the filing of an application under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

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).

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 10, 2006, accompanies this decision on petition.

Technology Center Art Unit 2882 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

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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

Mail Date: 04/21/2010

Applicant	: Manabu Akita	: DECISION ON REQUEST FOR
Patent Number	: 7601064	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/799,452	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1205** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PANITCH, SCHWARZE, BELISARIO & NADEL, LLP
ONE COMMERCE SQUARE
2005 MARKET STREET
SUITE 2200
PHILADELPHIA, PA 19103

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Keiichi Sando :
Application No. 10/799,495 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 9976-26US(OB0054US) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 10, 2008.

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

The petition is **GRANTED**, *nunc pro tunc*.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition, the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

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 2625 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.

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

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FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO CA 92691

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DEC 0 3 2004

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Yang Gao :
Application No. 10/799,505 :
Filed: March 11, 2004 :
Attorney Docket No. 0160114 :

This is a decision on the petition filed under 37 CFR 1.53, October 4, 2004, requesting a filing date of March 11, 2004 for the above identified application.

Application papers in the above-identified application were filed on March 11, 2004. However, on September 23, 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, that the application had been filed without drawings, that the oath or declaration was missing and finally that the abstract was not provided.

In response, the instant petition, under 37 CFR 1.53, with a date-stamped postcard receipt itemized was filed to show that a 23 page specification which includes four (4) pages of claims (pages 19-22) and a one page abstract on page 23, labeled on the postcard as "Patent Application, plus and oath or declaration and five (5) sheets of drawings containing Figures 1-5, were filed on March 11, 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 March 11, 2004. The Express Mail label however is not persuasive evidence of the receipt of the complete specification, drawings and oath or declaration on March 11, 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 corroborates petitioners assertion that the application as filed on March 11, 2004 was complete and the true copies of the application satisfies the requirements as set out in the Notice mailed September 23, 2004.

In view of the foregoing, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee filed with the petition on October 4, 2004 in the amount of $130.00 will be credited to deposit account no. 50-1867.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of March 11, 2004, using the application papers received in the Office on that date and the papers submitted on petition October 4, 2004. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6869045
Issue Date: March 22,2005
Application No. 10799508
Filed: March 11,2004
Attorney Docket No.

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

This is a decision on the electronic petition, filed May 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 4,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6869045	2005-03-22	10799508	2004-03-11	150089.403

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	/Karl Klassen/	Date (YYYY-MM-DD)	2010-05-04
Name	Karl L. Klassen	Registration Number	54224

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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TERRY D. MORGAN
WILLIAMS, MORGAN & AMERSON, P.C.
SUITE 1100
10333 RICHMOND
HOUSTON TX 77042

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MAR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Hiller et al.	:	
Application No. 10/799,569	:	DECISION ON PETITION
Filed: March 12, 2004	:	
Attorney Docket No. 2100.005300/HILLER 21-15	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 11, 2008, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely reply to the final Office action mailed June 21, 2007, which set a shortened statutory period for reply of three (3) months. A three-month extension of time and reply under the provisions of 37 CFR 1.136(a) was timely obtained on December 21, 2007 (Certificate of Mailing date). A Notice of Abandonment was mailed on December 28, 2007.

Petitioner contends that a response in the form of a Notice of Appeal and extension of time was timely filed on December 21, 2007(Certificate of Mailing date). A review of the record shows that this is the case.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The petition to revive under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT.**

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the large entity $1,620.00 petition fee submitted with the 1.137(b) will be credited to petitioner's Deposit Account in due course.

As petitioner also submitted a Request for Continued Examination (RCE) with the instant petition, this matter is being referred to Technology Center AU 2618 for further processing.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/20/07

Paper No.: —

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No. 10/799573 Patent No.: 7178072B2

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: _____

_____

_____

_____

_____

Ha Nguyen — **SPE**

2829 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/26/09 Paper No.: ____

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/799599 Patent No.: 7397741 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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: _____

/Wayne Young/ 2627

SPE **Art Unit**

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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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SEP 16 2004

OFFICE OF PETITIONS

In re Application of :
Ronald W. McGehee :
Application No. 10/799,600 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No.: P08207US02/MP :

This is a decision regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 3, 2004.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc.. 154 F.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. However, petitioner is ultimately responsible for ensuring that the correct fee is paid.

Small entity status will no longer apply.

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 3725 for examination in due course.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/20/10 Paper No.: —

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/799600 Patent No.: 7490418B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: APPROVED IN ITS ENTIRETY

/Dana Ross/
SPE AU 3725

24 May 2010

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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RADER FISHMAN & GRAUER
PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE
501
WASHINGTON, DC 20036

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Tsukimori, et al.

Application No. 10/799,617

Filed: March 15, 2004

Attorney Docket No. SON-2967

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 28, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the statutory period. Accordingly, the application became abandoned on May 29, 2006. A Notice of Abandonment was mailed on September 29, 2006.

The amendment filed December 4, 2006, is noted and made of record.

The application is being forwarded to Technology Center 2100, GAU 2112 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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GARY R. TANIGAWA
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Edward D. Hyman	:	DECISION ON PETITION
Application No. 10/799,638	:	TO WITHDRAW
Filed: March 15, 2004	:	FROM RECORD
Attorney Docket No. BAYB.P-003	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2005.

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

A review of the file record indicates that on November 29, 2005 the power of attorney to Nixon & Vanderhye, PC was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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: Larson & Anderson, LLC
P.O. Box 4928
Dillon CO 80435

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090601

DATE : June 01, 2009

TO SPE OF : ART UNIT 1661

SUBJECT : Request for Certificate of Correction on Patent No.: PP 15,862

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:

/Anne Marie Grunberg/
Supervisory Patent Examiner, Art Unit 1661

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LEE & MORSE, PC
3141 FAIRVIEW PARK DRIVE, SUITE 500
FALLS CHURCH, VA 22042

MAILED

JUL 06 2009

OFFICE OF PETITIONS

In re Application of :
Jin-Sung LEE, et al. :
Application No. 10/799,652 : DECISION ON PETITION TO
Filed: March 15, 2004 : WITHDRAW FROM RECORD
Attorney Docket No. **2557SI-001272/US** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **LEE & MORSE, PC** has been revoked by the assignee of the patent application on May 13, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **HARNESS, DICKEY & PIERCE, P.L.C.**
P.O. BOX 8910
RESTON VA 20195

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FEB 23 2010

OFFICE OF PETITIONS

MATTINGLY, STANGER & MALUR, PC
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Patent No. 7,457,780 : DECISION ON PETITION
Issue Date: November 25, 2008 : UNDER 37 CFR 1.78(a)(3)
Application No. 10/799,653 : AND REQUEST FOR
Filed: March 15, 2004 : CERTIFICATE OF CORRECTION
Attorney Docket No. :

This is a decision on the petition, filed June 12, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to non-provisional Application No. 09/244,050, filed February 4, 1999, by way of a certificate of correction.

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

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

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

The petition does not comply with item (1).

The amendment presented in the Certificate of Correction is unacceptable as presented because application 09/618,552 does not claim benefit to application no. 09/244,050.

As authorized, the $1,410 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's credit card.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and the certificate of corrections must be submitted.

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 April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Technology Center.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Kazushige Takagi et al	:	
Application No. 10/799,663	:	DECISION GRANTING PETITION
Filed: March 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1082.1067	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 16, 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 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. None

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1001, VICTORIA SQUARE - BLOC E - 8TH FLOOR
MONTREAL QC H2Z 2B7 CA CANADA

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JUN 05 2006
OFFICE OF PETITIONS

In re Application of	:	
Alain Courtemanche	:	
Application No. 10/799,697	:	
Filed: March 15, 2004	:	DECISION ON PETITION
Attorney Docket No. 005170-0017	:	UNDER 37 C.F.R. §1.181(A)
Title: LIQUID MANURE SPREADING TOOL BAR	:	

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on October 13, 2005.

The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Ex Parte Quayle Office action, mailed March 10, 2005, which set a shortened statutory period to reply for two months. No extensions of time under the provisions of 37 C.F.R 1.136(a) were received. Accordingly, the above-identified application became abandoned on May 11, 2005. A Notice of abandonment was mailed on October 3, 2005.

With the present petition, Petitioner has asserted that the electronic file indicates that a response to this Office action was received in the Office on April 22, 2005. The electronic file has been reviewed, and it is clear that a response was indeed received on this date. Petitioner has also submitted a postcard receipt which evinces that a "letter dated 21 April 2005" was received in the Office on April 22, 2005.

Petitioner has further indicated that the submission and the postcard receipt each bears the wrong serial number - each contains the identifier 10/779,697.

Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response of April 22, 2005 can be processed.

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

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

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of :
Masayuki Hori :
Application No. 10/799699 :
Filing or 371(c) Date: 03/15/2004 :
Attorney Docket Number: :
T4025.0036/P036 : ON PETITION

This is a decision on the Petition Under 37 C.F.R. §1.181(a), filed November 15, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed May 3, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on August 4, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action was filed on August 3, 2007, and received by this Office as evidenced by the copy of Applicant's return-receipt postcard. In support of this assertion, Applicant files a copy of the Reply and a copy of his return-receipt postcard acknowledging receipt by this Office of the Reply on August 3, 2007.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2627 for processing of the Reply, and for continued examination in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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Paper No. 10222004

JAN 19 2005

McDermott, Will & Emery
600 13th Street, N.W.
Washington DC 20005-3096

In re Application of
FUJI et al.
Application No. 10/799,715
Filed: March 15, 2004
Attorney Docket No. 60188-756

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.102, filed July 2, 2004 to make the above-identified application special.

The petition request that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination. The petition also request that the above-identified application be made special under MPEP 708.01 (I) because it has an effective pendency of more than 5 years by relation to a prior United States application.

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

For the above stated reasons, the petition is GRANTED.

A decision on the petition that the above-identified application be made special under MPEP 708.01 (I) because it has an effective pendency of more than 5 years by relation to a prior United States application is moot. A petition is not available for applications having an effective pendency greater than 5 years. The supervisory patent examiner has been informed of the five year pendency of this application.

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

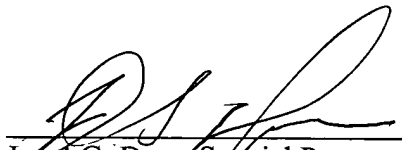
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

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

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

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

The petition is granted to the extent indicated.



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

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JOSEPH W. BERENATO, III
LLNIAK, BERENATO & WHITE, LLC
6550 ROCK SPRING DRIVE, SUITE 240
BETHESDA, MD 20817

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OFFICE OF PETITIONS

In re Application of :
Rochman :
Application No. 10/799,721 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 6332.140 DIV :

This decision concerns the June 3, 2004 "37 CFR 1.17(h) Petition to Include Omitted Items" which in essence requests that a May 28, 2004 "Notice of Omitted Item in a Nonprovisional Application" ("5/28/04 Notice") be vacated.

The petition is **DISMISSED.**

The application was deposited on March 15, 2004. As pointed out in the 5/28/04 Notice, this application has been accorded a filing date, but a Figure 7 described in the specification appears to have been omitted from the filed application.

Petitioner asserts that the allegedly omitted Figure 7 was filed with the other application papers on March 15, 2004. In support, the petition is accompanied by a copy of counsel's postcard receipt, indicating filing in the USPTO for this application on March 15, 2004 of, *inter alia*, six sheets of drawings.

A problem exists with the postcard in so far as a portion is not properly itemized. Specifically, the line listing the preliminary amendment does not state a specific number of pages. When the employee who reviewed the postcard also reviewed the file, he would have found six sheets of drawings. Sheet 6 would have been a sheet consisting of Figure 9. Unless the individual who read the postcard actually read the application papers themselves, along with the preliminary amendment, he or she may well have counted the sheet with Figure 9 when he or she verified that at least six sheets of drawings were present.[1] Therefore, the postcard will not serve as *prima*

[1] Each application received by OIPE must be individually reviewed for compliance with both the statutory requirements for according an application a filing date and for compliance with various requirements of the rules. Many of the applications concern complex technology. Accordingly, the employees of OIPE, who are not trained engineers or scientists, are not expected to make a detailed comparison of the written description, drawings, and preliminary amendments. To do so would require a greater expenditure of time and resources, with a resulting increased cost, than are currently allocated. In the past, applicants and practitioners have indicated to the PTO that such increases are undesired.

facie evidence that six sheets of drawings, not including the drawing sheet with Figure 9, were filed on March 15, 2004.

Although one can see rational arguments for more than one interpretation of the contents of the postcard, petitioner bears the burden of proof and the Office will not automatically assume the interpretation most beneficial to petitioner. The Office has considered the contents of the official record and the evidence presented by petitioner. Unfortunately, the current record is insufficient to prove the Figure 7 was filed on March 15, 2004.

Although the petition is dismissed, the Office notes that a viable, and easier, method to add Figure 7 may well exist. An amendment adding Figure 7 may be entered by the examiner *without petition* so long as the amendment contains no new matter. Se MPEP 608.02(a). The petition states that an identical Figure 7 was filed in the parent application which is incorporated by reference. Therefore, petitioner may wish to file an amendment adding Figure 7. Adding the figure by amendment, rather than petition, might benefit petitioner in so far as such entry would ensure petitioner that no third party could ever accuse the Office of improperly entering the figure based on a possibly ambiguous postcard.

Since the current record fails to prove the Office sent the Notice in error, the petition fee will not be refunded. The Office notes that $130 was previously charged to petitioner's deposit account despite the fact that a check for $130 accompanied the petition. Therefore, $130 has been credited back to the deposit account.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 15, 2004, using the papers filed on that date, and for indicating in the USPTO record that 6 sheets of drawings (consisting of Figures 1-6, 8-9) were present on filing. Thereafter, the file will be forwarded to Technology Center 3600 for examination in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/799,722 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 07977-221004 :

This is a decision on the petition, filed June 10, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

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

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

The examiner of Technology Center AU 2815 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

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

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FISH & RICHARDSON
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MINNEAPOLIS MN 55440-1022

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 10/799,722 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 07977-221004 :

This is a decision on the petition, filed May 26, 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 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2815 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SHIH YU CHANG
Wu Ku Industrial Park
No.29
Wu Chung 3RD Rd.
Wu Ku Hsiang 248 TW TAIWAN

JAN 0 3 2007

In re Application of: CHANG Serial No.: 10/799,735 Filed: March 15, 2004 Title: SEAMLESS HANDLE GRIP OF LUGGAGE	:	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on October 25, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must

meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

For the above-stated reasons, the petition is **DENIED**. The application will therefore be taken up by the examiner for action in its regular turn.

Any inquiry regarding this decision should be directed to J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

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P.O. BOX 221200
CHANTILLY VA 20153-1200

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OFFICE OF PETITIONS

In re Application of :
Muret et al. :
Application No. 10/799,738 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. QSI-0001C2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 9, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 10, 2008. *See* MPEP 1215.04.

Further, 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 person signing the instant petition was given a power of attorney or authorization of agent to prosecute this patent. 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.

Additionally, the change of correspondence address submitted November 7, 2008 will not be accepted since it was not signed by a registered attorney 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.

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.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: René A. Vazquez, Esq.
8720 Greensboro Drive, Suite 700
McLean, VA 22102

Enclosure: Examiner's Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/799,738	Applicant(s) MURET ET AL.	
	Examiner KUEN S. LU	Art Unit 2169	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-14.
   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: See Continuation Sheet.

/Kuen S Lu/
Primary Examiner, Art Unit 2169

Continuation of 13. Other: An abandoned application for nearly a year. No brief filed after appeal notice filed for nearly a year..

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OFFICE OF PETITIONS

In re Application of :
Muret et al. :
Application No. 10/799,738 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 16113-1588003 / GP-1310-0 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2))within the time period provided in 37 CFR 41.37(a)(1). No extensions of time under the provisions of 37 CFR 1.136(b) were obtained. As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal dated November 9, 2007, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 10, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00 (previously paid on November 7, 2008); and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The file is now being forwarded to Technology Center 2167 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROCKEVILLE, MD 20850

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JAN 30 2007

OFFICE OF PETITIONS

In re Patent No. 7,023,083	:	
Issue Date: April 4, 2006	:	
Application No. 10/799,760	:	ON PETITION
Filed: March 15, 2004	:	
Attorney Docket No. 0715.0010C	:	

This is a decision on the petition treated under 37 CFR 3.81(b), filed September 13, 2006 and again on November 30, 2006, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
3000 K STREET NW, SUITE 500
WASHINGTON, DC 20007

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JUN 18 2009

OFFICE OF PETITIONS

In re Application of

Axel ULLRICH, et al.
Application No. 10/799,782
Filed: March 15, 2004
Attorney Docket No. **017853-0145**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 2009.

The request is **APPROVED**.

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

The request was signed by Michele M. Simkin on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor Axel Ullrich at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 15, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **AXEL ULLRICH**
TURKENSTRASSE 104
MUNCHEN, GERMANY 80799

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Dipl.-Ing. Karl Schrodinger	: DECISION ON REQUEST FOR
Patent Number	: 7620331	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/799,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **740** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/20/08

TO SPE OF : ART UNIT 3815

SUBJECT : Request for Certificate of Correction for Appl. No.: 10799811 Patent No.: 7297977

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

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

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

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

Comments: _____

Kenneth Parker 2813
SPE **Art Unit**

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SUGAR LAND TX 77478

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OFFICE OF PETITIONS

In re Application of
Keith Alan **MORIARTY**
Application No. 10/799,817
Filed: March 12, 2004
Attorney Docket No. 92.1038

DECISION ON PETITION

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 11, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 9, 2006 . Accordingly, the date of abandonment of this application is September 12, 2006 .

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. Therefore, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOCKE LIDDELL & SAPP LLP
600 TRAVIS
3400 CHASE TOWER
HOUSTON TX 77002-3095

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MAY 27 2005

OFFICE OF PETITIONS

In re Application of :
Danielle Renee Forget Shield :
Application No. 10/799,826 : DECISION ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 020976-00100 :

This is a decision on the petition under 37 CFR 1.53, filed August 6, 2004, to accord the above-identified application a filing date of March 12, 2004, with 24 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on March 12, 2004. However, on July 21, 2004, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicant filed the instant petition. Accompanying the petition was a copy of the application purportedly filed, including 24 sheets of drawings. Applicant maintains that the application as originally filed included 24 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Drawings" as enclosed, bearing a United States Patent and Trademark Office date-stamp of March 12, 2004, and lacking any notation of non-receipt of any item listed.

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.

Regarding the itemization required on a postcard receipt, the Manual of Patent Examining Procedure § 503 also states:

> 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.

Petitioner is reminded that his itemization of "Drawings" on the postcard would **not** have served as sufficient proof that all drawings were received if the PTO determined that only some of the sheets of drawings were missing.

Given the basis for granting the petition, no petition fee is required, and none has been charged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of March 12, 2004, using the application papers received in the Office on that date and the 24 pages of drawings as resupplied on petition filed August 6, 2004, and for indication in Office records that 24 sheets of drawings was present on filing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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DAVID J. ARCHER
7037 POMERY ROAD
ROCKTON IL 61072

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OFFICE OF PETITIONS

In re Application of	:	
Wilson, Rodney W.	:	
Application No. 10/799,833	:	ON PETITION
Filed: March 13, 2004	:	
Attorney Docket No. 1348	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 1700 for further examination on the merits.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Mitsuaki Osame et al :
Application No. 10/799,857 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 12732-219001 :

This is a decision on the petition, filed June 28, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 24, 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 2821 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Perkins Coie LLP
P.O. Box 1208
Seattle, WA 98111-1208

Mail Date: 05/10/2010

Applicant	: Vijay Deshmukh	: DECISION ON REQUEST FOR
Patent Number	: 7630994	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/799,861	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **499** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of :
Masayuki Nakamoto :
Application No. 10/799,876 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No.: 250291US2SRD CONTINUATION :
:

This is a decision on the petition, filed December 14, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 2, 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 2879 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley

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
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Date : December 14, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Masayuki Nakamoto
Application No. : 10/799,876
Filed : March 15, 2004

The above-identified application has been assigned Patent No. 6,979,941 and an issue date of December 27, 2005.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of December 27, 2005:

> "All reference to Patent No. 6,979,941 to MASAYUKI NAKAMOTO of JAPAN for FIELD EMISSION COLD CATHODE DEVICE OF LATERAL TYPE appearing in the Official Gazette of December 27, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley

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

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

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ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Eric Kauffman et al.
Application No. 10/799,892
Filed: March 15, 2004
Attorney Docket No. 250049US6YA

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply to the Office letter mailed September 25, 2006, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 27, 2006. The Notice of Abandonment was mailed April 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

A refund in the amount of $2,160 for the fifth month extension of time mistakenly filed will be credited to deposit account 15-0030.

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. 11/740,195.

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

Liana Walsh
Petitions Examiner
Office of Petitions

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MAY 03 2007

DOCKET NO: 250049US6YA

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

ERIC KAUFFMAN, ET AL. : EXAMINER: JARRETT, S.

SERIAL NO: 10/799,892 :

FILED: MARCH 15, 2004 : GROUP ART UNIT: 3623

FOR: SERVICE ACTIVITY MANAGEMENT SYSTEM AND METHOD FOR SEMICONDUCTOR MANUFACTURING EQUIPMENT :

REQUEST FOR REFUND UNDER 37 C.F.R. §1.26(a)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

ATTN: REFUND SECTION,
FINANCIAL ACCOUNTING DIVISION
OFFICE OF FINANCE

SIR:

Applicants herein request a refund under 37 C.F.R. §1.26(a) of the fees paid for the fifth one-month extension of time filed April 25, 2007, in the above-identified application, copies of which are enclosed with a Electronic Acknowledgement Receipt indicating the filing thereof.

Applicants submit that the petition for a fifth one-month extension of time was mistakenly filed on April 25, 2007, and therefore the fee submitted therewith should be refunded.

Refund Ref:
01/10/2008 0030048986

Credit Card Refund Total: $2160.00

Am Exp..: XXXXXXXXXXX1003

PAGE 21/34 * RCVD AT 5/3/2007 5:17:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/6 * DNIS:2738300 * CSID:7034132220 * DURATION (mm-ss):05-04

Adjustment date: 01/10/2008 CKHLOK
04/26/2007 INTEFSW 00000957 10799892
01 FC:1255 -2160.00 DP

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MAY 03 2007

BACKGROUND FACTS

1. On August 21, 2006, Applicants herein filed a Request for Continued Examination along with a petition for a second month extension of time;

2. The Applicants' representative received a case-specific, non-regular U.S.P.T.O. communication of which mailing date is September 25, 2006. The communication required the Applicants under 37 C.F.R. §1.105 to provide the specified information. A copy of the communication is attached as Attachment I;

3. A required reply was filed by the undersigned petitioner as continuation application No. 11/740,195 on April 25, 2007. Concurrently, a petition for a five month extension was filed in this application. A copy of the petition and Electronic Acknowledgement Receipt is attached as Attachment II; and

4. However, the Request for Information under 37 C.F.R. §1.105 had a statutory due date of March 25, 2007, and thus the present application was unintentionally abandoned on March 25, 2007. A Notice of Abandonment was issued in this application on April 16, 2007. A copy of this Notice is attached as Attachment III.

REMARKS

Under 37 C.F.R. §1.26(a), any fee paid by mistake will be refunded. Applicants submit that the fifth one-month extension of time out of the five month extension of time (Attachment II) was filed mistakenly in this application.

As the present application was unintentionally abandoned on March 25, 2007, the filing of the petition for a fifth one-month extension on April 25, 2007 was not necessary, moot, and therefore, a mistake.

PAGE 22/34 * RCVD AT 5/3/2007 5:17:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/6 * DNIS:2738300 * CSID:7034132220 * DURATION (mm-ss):05-04

Application No. 10/799,892
Reply to Notice of Abandonment of April 16, 2007

Applicants therefore respectfully submit that a refund of $570.00 for the fifth one-month extension of time filed April 25, 2007 is justified under 37 C.F.R. §1.26(a), and that any refund granted be credited to Deposit Account No. 15-0030.

Furthermore, if the Refund Section has any further concerns, they are invited to contact the undersigned directly at 703-413-2779.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Edward Tracy

Steven P. Weihrouch
Attorney of Record
Registration No. 32,829

Edward Tracy
Registration No. 47,998

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
I:\ATTY\ET\250049US\250049US REQ FOR REFUND 5-2-07.DOC

PAGE 23/34 * RCVD AT 5/3/2007 5:17:15 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/6 * DNIS:2738300 * CSID:7034132229 * DURATION (mm-ss):05-04

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

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 01/07/08

2 Serial/Patent # 10/799,892

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		04/25/07	$ 2,160.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 2,160.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 1 5 -- 0 0 3 0 Credit Card

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

There was no extension needed.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: Terri Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

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APPROVED: OK DATE: 1/10/08

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

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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Commissioner for Patents
United States Patent and Trademark Office
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DLA PIPER RUDNICK GRAY CARY US, LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107-1907

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JUL 05 2006

OFFICE OF PETITIONS

In re Application of :
Rich Huffman :
Application No. 10/799,898 :
Filed: March 12, 2004 :
Attorney Docket No. 2503343-991100 :

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on April 14, 2006.

The request is **NOT APPROVED**.

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

While the assignee attempted to intervene in the above-identified application, the Revocation of Power of Attorney filed May 1, 2006 does not comply with 37 CFR 3.73(b) in that the required Statement under 37 CFR 3.73(b) is incomplete. Therefore, in order for the Revocation of Power of Attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. Assignee is encouraged to use Statement under 37 CFR 3.73(b) found on the USPTO.gov website (Form No. PTO/SB/96).

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

This application file is being referred to Technology Center Art Unit 3762.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: JACKSON & CO., LLP
6114 LA SALLE AVENUE
SUITE 507
OAKLAND, CA 94611-2802

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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NOV 12 2008

In re Patent No. 7,398,469 :
Issue Date: July 8, 2008 :
Application No. 10/799,904 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 018360/274115 :

This is a decision on the petition, filed September 15, 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) 272-3230. 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.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

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ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Patent No. 7,124,059 :
Issued October 17, 2006 :
Application Number: 10/799,914 : DECISION ON PETITION
Filing Date: March 12, 2004 :
Attorney Docket Number: **10022/202** :

This is a decision on the petition under 37 CFR 1.322 filed April 30, 2007 for a certificate of correction to correct the name of the assignee.

The petition is **DISMISSED**.

Assignment data printed on the patent is based solely on the information so supplied on the Issue Fee Transmittal Form (PTOL-85B). A review of the record indicates that the Issue Fee Transmittal Form (PTOL-85B) submitted July 24, 2006, incorrectly identified the assignee. However, the granting of a request under 37 CFR 3.81 (b)[1] is required to correct applicant's error providing incorrect or erroneous assignment date, 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.

Additionally, petitioner must include a copy of the notice of Recordation of Assignment Document, reflecting the real and frame number where the assignment(s) is recorded and/or reflecting proof of the date the assignment was submitted for recordation. The instant petition was not submitted with a petition under 37 CFR 3.81(b) and thus cannot be granted.

---

[1]Any request for issuance of an application in the name of the assignee submitted after the date of the payment of the issue fee, and any request that a patent be corrected to state the name of assignee must:

(A) state the assignment was submitted for recordation as set forth in 37 CFR §3.11 before issuance of the patent;
(B) provide a request for a certificate of correction §1.323;
(C) provide the fee set forth in 37 CFR §1.20 (a) and
(D) provide the processing fee set forth in 37 CFR §1.17(i)

Any request for reconsideration under 37 CFR 3.81(b) 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 Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
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

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

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MAR 16 2005

OFFICE OF PETITIONS

In re Application of :
Hofland, et al. : DECISION REFUSING STATUS
Application No. 10/799,922 : UNDER 37 CFR 1.47(a)
Filed: March 12, 2004 :
Atty. Dkt. No.: 020681-001610 :
For: LIPOSOMAL FORMULATIONS AND :
METHODS OF USE :

This decision is in response to the petition under 37 CFR 1.47(a), filed January 6, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 12, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed June 1, 2004 requiring, *inter alia*, an executed oath or declaration and a surcharge.

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

The instant petition lacks requirements (1) set forth above. Petitioners allege that inventor H. Hofland refused the sign the

declaration after having been presented with the application papers. The petition establishes that the inventor was sent a declaration and an assignment; requested documentation of an allegedly assignment agreement, thereafter refused to requests to execute the declaration. There is no evidence to establish that the inventor received a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Moreover, the inventor states via email that he has not refused to execute the declaration, but instead has merely requested copies of documentation referencing his requirement to execute patent rights.

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioners have failed to establish that the non-signing inventor received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on 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 facsimile:	(703) 872-9306
By hand:	U.S. Patent and Trademark Office

Customer Service Window
Mail Stop Petition
Randolph Building
Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

In re Application of	:
Hoffland, et al.	: DECISION NOTING JOINDER
Application No. 10/799,922	: OF INVENTOR AND PETITION
Filed: March 12, 2004	: UNDER 37 CFR 1.47(a) MOOT
Atty. Dkt. No.: 020681-001610	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed May 18, 2005.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

PET DEC

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	10/799,928
Filing Date	March 11, 2004
First Named Inventor	Jerome Jay Fifo et al.
Art Unit	1724
Examiner Name	Not yet assigned
Attorney Docket Number	087508-0308457

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

Approved
1-5-06
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700

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

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

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

The reasons for this request are: Due to irreconcilable differences that have recently arisen between the inventors, representation of either of them will likely involve the practitioner representing differing interests. See 37 CFR 10.66(a).

CORRESPONDENCE ADDRESS

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

[ ] The address associated with Customer Number: [ ]

OR

[x] Firm or Individual Name	Daniel E. Wickham				
Address	Pirana ABG, Inc. P.O. Box 1126 9740 Via Bella Vista				
City	Kenwood	State	CA	Zip	95452
Country	USA				
Telephone	(707) 865-2515			Fax	
Signature					
Name	Mark J. Danielson			Registration No.	40,580
Date	December 8, 2004			Telephone No.	(650) 233-4777

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

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

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,941	03/11/2004	Martha G. Welch	5199-134	8041

56949 7590 05/23/2007
WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK, NY 10022

EXAMINER	
KOSAR, ANDREW D	
ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
05/23/2007	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Serial No.: 10/799,941 :
In re Application of: :
WELCH, M. et al : DECISION on PETITION
Filed: March 11, 2004 :

This is in response to Petition for Color Drawings filed on February 28, 2007.

All the requirements under 37 CFR 1.84 are met. Accordingly, petition is granted.

Cecilia Tsang
SPE, Art Unit 1654

Cecilia J. Tsang
Supervisory Patent Examiner
Technology Center 1600

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399 PARK AVENUE
NEW YORK NY 10022

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APR 30 2008

OFFICE OF PETITIONS

In re Application of :
Martha G. Welch et al :
Application No. 10/799,941 : DECISION ON PETITION
Filed: March 11, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 5199-134 :

This is a decision on the petition filed October 26, 2007 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 priority to 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 Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on March 11, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/518,389, which was filed on November 6, 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. 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. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) 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).

Further, the Application Data Sheet (ADS) submitted with the instant petition is unsigned.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

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

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

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

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NEW YORK NY 10022

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AUG 0 8 2008

In re Application of :
Martha G. Welch et al :
Application No. 10/799,941 : DECISION ON PETITION
Filed: March 11, 2004 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 5199-134 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed May 27, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 1654 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.

Karen Creasy

Karen Creasy
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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/799,941	03/11/2004	1654	1176	5199-134	23	14

CONFIRMATION NO. 8041

CORRECTED FILING RECEIPT

56949
WilmerHale/Columbia University
399 PARK AVENUE
NEW YORK, NY 10022

OC00000003146217 2

Date Mailed: 08/08/2008

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)

Martha G. Welch, New York, NY;
David A. Ruggiero, New York, NY;
Muhammad Anwar, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 28089

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/518,389 11/06/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/31/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/799,941**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Novel multipeptide regimen for the treatment of autistic spectrum, behavioral, emotional and visceral inflammation/autoimmune disorders

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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FROM DIRECTORS OFFICE

APR 10 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
TECHNOLOGY CENTER 3600
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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

In re application of
Gerald G. Lyman
Application No. 10/799, 944 : DECISION ON REQUEST
Filed: March 11, 2004 : FOR WITHDRAWAL OF
For: REAL ESTATE FINANCE : ATTORNEY
INSTRUMENT

This is a decision on the request filed on May 23, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

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

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

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

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

The request to withdraw as attorney in the above-identified application is not approved because the request does not comply with conditions B) above.

As to condition B) the reason "Applicant is no longer a client" is not an acceptable reason for an attorney to withdraw. Condition B can be met by clearly specifying one of the valid reasons for withdrawal under 37 CFR 10.40 (b)(1) or (c) (1)-(6).

Randolph A. Reese
Special Programs Examiner
Patent Technology Center 3600
571-272-6619

RAR/dcg: 6/23/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Townsend and Townsend and Crew, LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :
Gerald G. Lyman :
Application No. 10/799,944 : DECISION ON PETITION
Filed: March 11, 2004 : TO WITHDRAW
Attorney Docket No. 022203-000100US : 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 26, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorney(s) and/or agent(s) of record were not appointed by Customer Number 20350 in the declaration, therefore they cannot be withdrawn by Customer Number.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Gerald G. Lyman
27221 Ortega Highway
Suite 342
San Juan Capistrano, CA 92675

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DEC 1 2 2006

OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of :

Gerald G. Lyman :
Application No. 10/799,944 : DECISION ON PETITION
Filed: March 11, 2004 : TO WITHDRAW
Attorney Docket No. 022203-000100US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 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 Raymon B. Hom, Jr. on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

All future correspondence will be directed to the first named inventor Gerald G. Lyman at the address indicated below.

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Gerald G. Lyman**
31 Plaza Caloroso
San Juan Capistrano, CA 92675

cc: **Gerald G. Lyman**
27221 Ortega Highway, Suite 342
San Juan Capistrano, CA 92675

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION.NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/799,944	03/11/2004	Gerald G. Lyman	022203-000100US

CONFIRMATION NO. 7996

OC000000021566550

OC000000021566550

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 12/12/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/05/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 05/04/2010

Applicant	: Joseph Kwak	: DECISION ON REQUEST FOR
Patent Number	: 7668132	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/799,974	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1510** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/28/06

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/799975** Patent No.: **7113134**

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. 173

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: _____

H. LE

_____ 2821
SPE **Art Unit**

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DEC 16 2005

TECHNOLOGY CENTER 2100

Rodney C. LeRoy
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

In re Application of:
Yuichi TAGUCHI et al
Application No. 10/799,988
Filed: March 11, 2004
For: METHOD AND APPARATUS FOR STORAGE NETWORK MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on August 01, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

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

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

Applicant's submission of August 01, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

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

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Commissioner for Patents
United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of :
Boyd & Pankratz :
Application No.: 10/799,998 :
Filed: March 12, 2004 :
Attorney Docket No.: 56050US008 :

ON PETITION

This a decision on the petition filed August 3, 2004 (certificate of facsimile dated July 30, 2004). The petition will be treated under 37 CFR 1.182 in accordance with 37 CFR 1.53(e)(2).

The petition is **granted.**

The subject non-provisional application was filed on March 12, 2004. On June 1, 2004, the Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application accorded the application a filing date and indicated that Figures 11 and 12 as described in the specification appeared to have been omitted. The notice set a non-extendable period for reply of two months from its mailing date. The instant petition was filed on August 3, 2004, and was accompanied by the omitted figures and a preliminary amendment requesting entry of the omitted figures.

Petitioner argues that the application was complete on filing and entitled to a filing date of March 12, 2004, because application 10/799,998 incorporated by reference application 09/827,732 in its entirety.

In view of the incorporation by reference statement found on the application transmittal sheet, the application will retain the filing date of March 12, 2004 with Figures 11 and 12 as part of the original disclosure. The examiner assigned to this application will be expected to consider the preliminary amendment and compare the drawings filed with the instant petition with the drawings contained in application 09/827,732 and/or prior related application listed to be sure application 10/799,998 does not contain new matter.

The application will be forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 12, 2004.

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

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VERTEX PHARMACEUTICALS INC.
130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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OCT 18 2007

OFFICE OF PETITIONS

In re Application of
VanGoor, et al.
Application No. 10/800,022
Filed: March 12, 2004
Attorney Docket No. VPI/03-103 US
For: MODULATORS OF ATP-BINDING CASSETTE TRANSPORTERS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2007, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

This application became abandoned for failure to timely reply to the final Office action, mailed June 26, 2006, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) being obtained and no reply being filed, the application became abandoned on September 27, 2006. A Notice of Abandonment was mailed on January 26, 2007.

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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (1) above.

Petitioner is reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance. Examiner Kosack has indicated that the reply filed June 29, 2007 fails to place the application in *prima facie* condition for allowance. Please see the enclosed Advisory Action Before the Filing of an Appeal Brief for more details.

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

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Advisory Action Before the Filing of an Appeal Brief for Application No. 10/800,022

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/800,022	Applicant(s) VANGOOR ET AL.	
	Examiner Joseph Kosack	Art Unit 1626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 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 _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: The goal of the prior art does not need to be the same as the instant application in order to be obvious.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Joseph Kosack
Patent Examiner
Art Unit 1626

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130 WAVERLY STREET
CAMBRIDGE MA 02139-4242

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
VanGoor, et al. :
Application No. 10/800,022 :
Filed: March 12, 2004 :
Attorney Docket No. VPI/03-103 US :
For: MODULATORS OF ATP-BINDING CASSETTE TRANSPORTERS

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

This application became abandoned for failure to timely reply to the final Office action, mailed June 26, 2006, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) being obtained and no reply being filed, the application became abandoned on September 27, 2006. A Notice of Abandonment was mailed on January 26, 2007.

Applicants have submitted a RCE and $810.00 fee and amendment in reply to the June 26, 2006 final Office action, a proper statement of the unintentional nature of the delay in responding to the June 26, 2006 final Office action, and the $1,540.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1626 for consideration of the RCE and amendment filed on December 17, 2007.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FISH & RICHARDSON
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of :
Jun Koyama :
Application No. 10/800,035 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 12732-218001/US7081 :

This is a decision on the petition, filed May 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2811 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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MAY 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Zhong et al.	:	DECISION ON PETITION
Application No. 10/800,037	:	TO WITHDRAW
Filed: March 15, 2004	:	FROM RECORD
Attorney Docket No. 8733.216.21-US	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

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

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed January 4, 2006 that requires a reply.

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.

Dennis Potter for

David Bucci
Petitions Examiner
Office of Petitions

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11-3-09

Patent No. : 7,340,450
Ser. No. : 10/800,038
Inventor(s) : Taro Sugahara, et. al
Issued : March 4, 2008

Re: Request for Certificate of Correction

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

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

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Kenneth M. Berner
1700 diagonal Road, Suite 300
Alexandria, VA 22314

ej

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November 5, 2009

Kenneth M. Berner
Lowe Hauptman Ham & Berner, LLP
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

Patent No.: 7,340,450 B2
Application No.: 10/800,038
Inventor: Taro Sugahara et al.
Issued: March 4, 2008
Title: **DATA SEARCH SYSTEM AND DATA SEARCH METHOD USING A GLOBAL UNIQUE IDENTIFIER**

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/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
571 272-0460 (voice)
571 270-9892 (fax)

vt

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

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JAN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,340,450 :
Issue Date: March 4, 2008 :
Application No. 10/800,038 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 1509-490 :

This is a decision on the petition filed November 9, 2009, 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 Terri Johnson at (571) 272-2991. 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.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Kenneth M. Berner**
1700 Diagonal Road, Suite 300
Alexandria, VA 22314

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Merchant & Gould, PC
P.O. Box 2903
Minneapolis, MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Gary Opperman et al. :
Application No. 10/800,043 : DECISION ON PETITION
Filed: March 11, 2004 : TO WITHDRAW
Attorney Docket No. 13288.29US01 : 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, former attorney with the firm of Merchant & Gould, PC.

Sarah M. Monfeldt has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

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DERGOSITS & NOAH LLP
SUITE 1450
FOUR EMBARCADERO CENTER
SAN FRANCISCO CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Courtney W. Turpen	:	
Application No. 10/800,044	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 653.02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of October 3, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3751.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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November 1, 2007

Brian M. Hoffman
FENWICK & WEST LLP
555 California Street
San Francisco, CA 94104

Patent No: 7,266,380 B2
Application No: 10/800,050
Applicant: Bradley C. Ashmore, et al.
Issued: September 4, 2007
Title: **COMBINING A MARKER WITH CONTEXTUAL INFORMATION TO DELIVER DOMAIN-SPECIFIC CONTENT**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

Inspection of the column 11, line 58, of the application for the above patent reveals that the error mentioned in your request is in fact printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing your request in this matter are hereby **denied**.

However, further consideration will be given to these matters, upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee, which is presently $100.

Virginia Tolbert
For Cecelia Newman, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY NC 27512

In re Application of :
Dany Sylvain :
Application No. 10/800,054 : DECISION ON PETITION
Filed: March 12, 2004 : TO MAKE SPECIAL
For: METHOD AND SYSTEM ENABLING :
COMMUNICATIONS BETWEEN A SWITCHED :
TELEPHONE NETWORK AND
A WIRLESS NETWORK

This is a decision on the petition filed March 12, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petitioner's statement that a pre-examination search was made under the instruction of the examiner is presumed to mean that all recommended search areas provided by the examiner and listed in the petition were in fact searched. Accordingly, the petitioner meets all the above-listed requirements.

The petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Takahiro Inoue	: DECISION ON REQUEST FOR
Patent Number	: 7586069	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **934** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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OFFICE OF PETITIONS

In re Application of

David Hepworth :

Application No. 10/800,065

: DECISION ON PETITION

Filed: March 12, 2004

:

Attorney Docket No. PC25367A

This is a decision on the petition under 37 CFR 1.137(b), filed, August 29, 2007, the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 15, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on March 16, 2007. A Notice of Abandonment was mailed July 12, 2007.

The amendment filed August 29, 2007, is noted.

The application is being forwarded to Technology Center 1600, GAU 1626 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FROST BROWN TODD LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202-4182

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FEB 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Raymond R. Neiser et al	:	
Application No. 10/800,070	:	DECISION GRANTING PETITION
Filed: March 12, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0100352.0516514	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 4, 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 December 22, 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 3651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,071	03/11/2004	Fred P. Lampropoulos	37621/295.1	8090

69821 7590 06/09/2009

MERIT MEDICAL SYSTEMS, INC.
C/O STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY, UT 84111

EXAMINER	
MENDEZ, MANUEL A	
ART UNIT	**PAPER NUMBER**
3763	

MAIL DATE	DELIVERY MODE
06/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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MERIT MEDICAL SYSTEMS, INC.
C/O STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY UT 84111

In re Application of:
LAMPROPOULOS, FRED P.
Serial No. 10/800,071
Filed: Mar. 11, 2004
Docket: 37621/295.1
Title: INTEGRAL FLUSHING DEVICE

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition, filed May 28, 2009, under 37 CFR 1.181, to withdraw the holding of abandonment. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required.

The petition under 37 CFR 1.181 is GRANTED.

The present application was held abandoned for failure to timely respond to the Non-Final Rejection mailed on October 29, 2008 which set forth a three-month period for reply. Notice of abandonment was mailed on May 12, 2009.

Petitioner argues however that a response was electronically filed on April 29, 2009 with a three month extension of time with the USPTO. A search of the application file and the USPTO records reveals that in fact, a response was filed with a three- month extension of time. The receipt date for the response and three-month extension of time is April 29, 2009. Thus the response was timely filed on April 29, 2009.

Accordingly, the Notice of Abandonment mailed May 12, 2009 was mailed in error and is hereby withdrawn. The holding of abandonment is withdrawn. Any inconvenience or delay caused to applicant is regretted. This application is being forwarded to the examiner in Art Unit 3763 for appropriate action.

Donald T. Hajec, Director
Technology Center 3700

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MERIT MEDICAL SYSTEMS, INC.
C/O STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Fred P. Lampropoulos	: DECISION ON REQUEST FOR
Patent Number	: 7591805	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,071	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1595** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BUHLER & ASSOCIATES
SUITE 100
1101 CALIFORNIA AVENUE
CORONA, CA 92881

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OFFICE OF PETITIONS

In re Application of :
Richard G. Campbell III et al :
Application No. 10/800,080 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. RC01-01U :

This is a decision on the petition under 37 CFR 1.137(b), filed April 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 16, 2004, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 17, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 16, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2833.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Moetteli & Associes SaRL
C.P. 486, 6 ave de Frontenex
Geneva 12 CH-12-11 CH SWITZERLAND

In re Application of :
Fortin, et al. : DECISION ON PETITION
Application No. 10/800,083 :
Filed: March 11, 2004 :
Atty. Dkt. No.: PUS-H002-002 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned September 3, 2005 for failure to timely reply to the non-final Office action mailed June 2, 2005. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 20, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

Submission of the required petition fee is a prerequisite prior to treatment on the merits of any petition submitted under 37 CFR 1.137(b). The required petition fee has not been received by

the USPTO despite reference to the submission of a fee payment in the instant petition.

Any renewed petition must include the required petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

Moetteli & Associes SaRL
C.P. 486, 6 ave de Frontenex
Geneva 12 CH-12-11 CH SWITZERLAND

In re Application of :
Fortin, et al. : DECISION ON PETITION
Application No. 10/800,083 :
Filed: March 11, 2004 :
Atty. Dkt. No.: PUS-H002-002 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 3, 2005 for failure to timely reply to the non-final Office action mailed June 2, 2005. The non-final Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed January 20, 2006. A petition under 37 CFR 1.137 was filed January 20, 2006 and dismissed March 20, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application 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
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

STANLEY H KREMEN
4 LENAPE LANE
EAST BRUNSWICK NJ 08816

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Steve Weinreich	:	
Application No. 10/800,104	:	ON PETITION
Filed: March 13, 2004	:	
Attorney Docket No. BLAKMIRR	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 8, 2007.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed September 8, 2004. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on December 9, 2004. A Notice of Abandonment was mailed on March 16, 2005.

With the instant petition, applicant paid the petition fee, made a proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 2872 for consideration of the Amendment filed March 8, 2007 (filed in the same document as the petition to revive).

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

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P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Timothy Roberts	: DECISION ON REQUEST FOR
Patent Number	: 7627829	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,128	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1481** 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.

10/800131

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

06/03/04

Beverly E. Hjorth
Weingarten, Schurgin, Gagnebin & Lebovivi LLP
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/800131 received on 05/20/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King
Signature of Reviewer, Office of Pre-Grant Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANGENEHM LAW FIRM, LTD.
P.O. BOX 48755
COON RAPIDS, MN 55448-0755

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OFFICE OF PETITIONS

In re Application of :
Barker, Joel A. :
Application No. 10/800,138 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. B377-030-PAT :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 15, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the final Office action mailed November 15, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on February 16, 2007. A Notice of Abandonment was mailed May 31, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[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(s) (1). The Amendment submitted to the Examiner on May 15, 2008 failed to place the above-identified application in prima facie condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application.

The Advisory Action issued by the Examiner is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/800,138	**Applicant(s)** BARKER, JOEL A.	
	Examiner Wilbert L. Starks, Jr.	**Art Unit** 2129	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 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: _____.

/Wilbert L. Starks, Jr./
Primary Examiner, Art Unit 2129

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OFFICE OF PETITIONS

ANGENEHM LAW FIRM, LTD.
P.O. BOX 48755
COON RAPIDS MN 55448-0755

In re Application of	:	
Barker, Joel A.	:	
Application No. 10/800,138	:	ON PETITION
Filed: March 12, 2004	:	
Attorney Docket No. B377-030-PAT	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed March 2, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition now 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 fee, (2) the petition fee (previously paid on May 15, 2008), and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2129 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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YAHOO! OVERTURE
PO BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re	:
Roberts, et al.	: DECISION REGARDING
Application No. 10/800,146	: PATENT TERM ADJUSTMENT
Filed: March 11, 2004	: AND
Patent No. 7,359,873	: NOTICE OF INTENT TO ISSUE
Issued: April 15, 2008	: CERTIFICATE OF CORRECTION

This decision is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT", filed May 7, 2008, requesting correction of the patent term adjustment (PTA).

The request is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **five hundred forty-seven (547) days**.

On April 15, 2008, the above-identified application matured into U.S. Patent No. 7,359,873. The patent issued with a Patent Term Adjustment of five hundred seventy-five (575) days.

However, as pointed out in the application for patent term adjustment, there was an error in the determination of the PTA. A review of the file reveals that applicants filed an RCE on January 1, 2008, in response to a final Office action mailed on September 4, 2007. Accordingly, twenty-eight (28) days of applicant delay should have been assessed pursuant to 37 C.F.R. §1.704(b).

In view thereof, the correct determination of patent term adjustment is **five hundred forty-seven (547) days** (596 days of PTO delay, reduced by 49 (21+28) days of applicant delay).

Accordingly, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. §1.322 is appropriate.

Give the basis for granting this decision, no fee is required and none has been charged. The Office thanks Patentees for their good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. 254 and 37 C.F.R. §1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **five hundred forty-seven (547) days**, subject to any disclaimers.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,359,873 B2

DATED : April 15, 2008

INVENTOR(S) : Roberts, et. al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (575) days

Delete the phrase "by 575 days" and insert – by 547 days—

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/800,160	03/12/2004	1616	770	5576.157		3	1

CONFIRMATION NO. 9070

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000013091201

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)

Takehiko Fukumoto, Niigata-ken, JAPAN;
Tatsuya Hojo, Niigata-ken, JAPAN;
Noboru Aiba, Niigata-ken, JAPAN;
Kouichi Ogura, Tokyo, JAPAN;
Fumiaki Mochizuki, Niigata-ken, JAPAN;

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-069102 03/14/2003

If Required, Foreign Filing License Granted: 05/31/2004

Projected Publication Date: 10/07/2004

Non-Publication Request: No

Early Publication Request: No

Title

Mating disruption agent and method of mating disruption

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).

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/23/2010

Applicant	: Anne Farbrot	: DECISION ON REQUEST FOR
Patent Number	: 7601882	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/800,176	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/12/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

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OFFICE OF PETITIONS

In re Patent No. 6,941,077 :
Issue Date: September 6, 2005 :
Application No. 10/800,177 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 60900-5000-US :
For: MEMORY MAPPED MONITORING FOR OPTOELECTRONIC DEVICE

This is a decision on the petition under 37 CFR 1.182, filed July 16, 2004 and supplemented on September 19, 2005, to correct the second joint inventor's name and issue a Certificate of Correction that reflects the change.

Petitioner has shown that on January 5, 2004, the second joint inventor legally changed his name.

The petition to correct the inventor's name and issue a certificate of correction is **granted**.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner for
Patent Examination Policy

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/800,195	03/12/2004	1752	1992	5347.218	10	64	8

CONFIRMATION NO. 8744

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000013263046

Date Mailed: 07/16/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Junyan Dai, Ithaca, NY;
Christopher K. Ober, Ithaca, NY;
Lin Wang, Madison, WI;
Franco Cerrina, Madison, WI;
Paul Nealey, Madison, WI;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/28/2004

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Organoelement resists for EUV lithography and methods of making the same

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7-22-08

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/860195 Patent No.: 7326514

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 Drawings

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

Ennis Young

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

[signature] SPE

1795 Art Unit

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LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS CA 95035

COPY MAILED

AUG 07 2007

OFFICE OF PETITIONS

In re Application of :
Nadya G. Strelkova et al :
Application No. 10/800,219 : DECISION GRANTING PETITION
Filed: March 12, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 03-2396 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of July 31, 2006, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Application No. 10/800,219

This matter is being referred to Technology Center AU 2825.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
JAMES R. FOLEY
105 WEST ADAMS STREET, SUITE 3600
CHICAGO, IL 60603

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 10/800,252

Paper No.: _____

DATE : 11/15/86

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction on Patent No.: 7122095

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:

PHILIP C. TUCKER, PH.D.
SUPERVISORY PATENT EXAMINER

SPE

1791
Art Unit

PTOL-306 (REV. 2/93) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON, CT 06340

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of :
Alan Daniel Brown et al :
Application No. 10/800,253 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. PC25600A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed March 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 8, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Washington, D.C. 20231
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SAWYER LAW GROUP LLP
P.O. Box 51418
Palo Alto CA 94303

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
Augustine W. Chang : DECISION DISMISSING
Application No. 10/800,257 : PETITION
Filed: March 11, 2004 :
Attorney Docket No. 3064P :

This is a decision on the petition filed June 28, 2004, which is being treated as a petition requesting that the above-identified application be accorded a filing date of March 11, 2004, with Figure 7 as part of the original disclosure.

On March 11, 2004, applicant filed the above-identified application. On June 1, 2004, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)," stating that a filing date had been assigned in the application; however, Figure 7 described in the specification appeared to be omitted from the application.

In response, on June 28, 2004, applicant filed the present petition, and a copy of Figures 7A, 7B, 7C, and 7D. Applicant asserted that all figures numbered 1 through 12 as described in the specification were submitted on the filing of the application. Applicant further asserted that a total of 23 sheets of drawings were submitted on filing, as evidenced by the enclosed date-stamped postcard receipt. Applicant submitted a copy of the date-stamped postcard receipt, indicating 23 sheets of drawings were filed on March 11, 2004. Additionally, applicant submitted a copy of Figures 7A, 7B, 7C, and 7D.

The Office notes that the specification submitted on filing indicated that Figure 7 illustrates the floating gate film being deposited along with the sandwiched films and photo-resist coatings.

A review of the record indicates that applicant did indeed file 23 sheets of drawings, including Figures 7A, 7B, 7C, and 7D.

However, the 23 sheets of drawings do not include Figure 7. Therefore, Figure 7 cannot be considered a part of the original disclosure of the application because it was not present on March 11, 2004, the date the application was filed. Accordingly, the application cannot be accorded the filing date of March 11, 2004, with Figure 7 as a part of the original disclosure.

Accordingly, the petition is dismissed.

The Office of Initial Patent Examination is directed to process the application with a filing date of March 11, 2004, using only the drawings submitted on that date, and indicating in the Office records that 23 sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/800,258	03/11/2004	2838	770	APL1P303/P3263	5	20	3

CONFIRMATION NO. 9100

CORRECTED FILING RECEIPT

022434
BEYER WEAVER & THOMAS LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

OC000000014370322

Date Mailed: 11/16/2004

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)

Joel S. Burton, Los Altos, CA;

Assignment For Published Patent Application

Apple Computer, Inc., Cupertino, CA

Power of Attorney: The patent practitioners associated with Customer Number **022434**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/30/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/800,258

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Autonomous thermal management

Preliminary Class

323

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Sharonda R. Williams
Suite 2800
909 Poydras Street
New Orleans, LA 70112

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OFFICE OF PETITIONS

In re Application of :
Randy Boudreaux :
Application No. 10/800,289 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 20576.0001(2) :

This is a decision on the petition under 37 CFR 1.137(b), filed June 12, 2006, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application mailed June 1, 2004. A Notice of Abandonment was mailed on February 17, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration along with the surcharge of $65 and a substitute specification; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of six (6) sheets of drawings containing Figures 1-6 filed on June 12, 2006.

This application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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NOV 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Ali Jabbary et al :
Application No. 10/800,297 : DECISION ON PETITION
Filed: March 11, 2004 : TO WITHDRAW
Attorney Docket No. PA2623US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 28, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Colleen M. Raphael does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: Cynthia Parks
Parks Knowlton LLC
1117 Perimeter Center West
Suite W-307
Atlanta, GA 30338

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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Zhen Liu	: DECISION ON REQUEST FOR
Patent Number	: 7593353	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,305	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1559** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE, SUITE 1400
SPOKANE, WA 99201

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DEC 12 2008

OFFICE OF PETITIONS

In re Application of :
Peter T. **BARRETT**, et al. :
Application No. 10/800,309 : DECISION GRANTING PETITION
Filed: March 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **MS1-1794US** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 25, 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]

The 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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2454 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

cc: **PATRICK D.S. REED**
LEE & HAYES PLLC
412 W. RIVERSIDE AVENUE, SUITE 500
SPOKANE, WA 99201

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,324	03/12/2004	Noriyuki Kikugawa	B422-343 (25813.375)	1673

26272 7590 09/29/2009

COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER	
TRAN, VINCENT HUY	

ART UNIT	PAPER NUMBER
2115	

MAIL DATE	DELIVERY MODE
09/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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COWAN LIEBOWITZ & LATMAN P.C.
JOHN J TORRENTE
1133 AVE OF THE AMERICAS
NEW YORK, NY 10036

In re Application of: KIKUGAWA
Application No. 10/800,324
Filed: March 12, 2004
For: DISPLAY SYSTEM, ACCESS POINT OF DISPLAY SYSTEM, AND POWER CONTROL METHOD

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed July14, 2009 to make the above-identified application special.

The request and petition are **DENIED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application is
(a) a Paris Convention application which either
(i) validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more applications filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims,

Or

(b) a national stage application under the PCT (an application which entered the national stage in the U.S. from a PCT international application after compliance with 35 U.S.C. 371), which PCT application
(i) validly claims priority to an application filed in the JPO, or
(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim,

Or

(c) a so-called bypass application filed under 35 U.S.C. 111 (a) which validly claims benefit under 35 U.S.C. 120 to a PCT application, which PCT application
(i) validly claims priority to an application filed in the JPO, or

(ii) validly claims priority to a PCT application that contains no priority claims, or
(iii) contains no priority claim.

Where the JPO application that contains the allowable/patentable claims is not the same application for which priority is claimed in the U.S. application, applicant must identify the relationship between the JPO application that contains the allowable/patentable claims and the JPO priority application claimed in the U.S. application.

(2) Applicant must submit a copy of:
a. The allowable/patentable claim(s) from the JPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy;
b. An English translation of the allowable/patentable claim(s) and
c. A statement that the English translation is accurate;

(3) Applicant must:
a. Ensure all the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s) and
b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
a. Documentation of prior office action:
i. a copy of the office action(s)just prior to the "Decision to Grant a Patent" from each of the JPO application(s) containing the allowable/patentable claim(s) or
ii. if the allowable/patentable claims(s) are from a "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
iii. if the JPO application is a first action allowance then no office action from the JPO is necessary should be indicated on the request/petition form;

Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS) applicant may request the USPTO obtain a copy from the DAS, however if the USPTO is unable to obtain a copy from the DAS the applicant will be required to submit a copy; b. An English language translation of the JPO Office action from (5)(a)(i)-(ii) above c. A statement that the English translation is accurate;

(6) Applicant must submit:
a. An IDS listing the documents cited by the JPO examiner in the JPO office action (unless already submitted in this application)
b. Copies of the documents except U.S. patents or U.S. patent application publications (unless already submitted in this application);

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fails because of:

A. Item 4 above. Specifically,

1. Examination of the U.S. application has begun.

Thus, the Petition is **DENIED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE WATSON INTELLECTUAL PROPERTY GROUP, PLC
3133 HIGHLAND DRIVE
SUITE 200
HUDSONVILLE MI 49426

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APR 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Edwards et al.	:	
Application No. 10/800,332	:	DECISION ON PETITION
Filed: March 12, 2004	:	
Attorney Docket No. 2002-016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 6, 2008 (originally received on December 4, 2006), to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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OCT 0 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Hekimi et al.	:	DECISION DISMISSING
Application No. 10/800,333	:	PETITION
Filed: March 12, 2004	:	
Attorney Docket No. 302087-999008	:	

This is a decision on the petition filed June 22, 2004, which is being treated as a request to withdraw the requirement for the submission of Figures 2F and 2G as set forth in the Notice to File Missing Parts of Nonprovisional Application mailed on April 22, 2004.

On March 12, 2004, the above-identified application was filed. However, on April 22, 2004, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of March 12, 2004, and advising applicants that they must submit a signed oath/declaration and a surcharge for its late filing. Additionally, the Notice indicated that Figures 2F and 2G described in the specification appeared to have been omitted.

In response, on June 22, 2004, applicants filed, inter alia, the present petition a $130.00 petition fee, and one (1) sheet of drawings, containing Figures 2A-1 through 2G. Applicants stated that the Notice was sent in error with respect to the omission of Figures 2F and 2G, which were submitted on the same sheet as Figures 2A-1 through 2E.

It is obvious from the petition that no drawings were actually missing on March 12, 2004. Rather, the Image File Wrapper (IFW) for the present application shows the drawings of Figure 2F and 2G as unlabeled. Therefore, according to Office records, the Notice of Missing Parts mailed on April 22, 2004, was correct in stating that Figures 2F and 2G described in the specification appeared to have been omitted. Therefore, the requirement to submit omitted Figures 2F and 2G set forth in the Notice of Missing Parts was proper and will not be withdrawn.

Accordingly, the petition is dismissed.

A preliminary amendment adding the labels "FIG. 2F and FIG. 2G" to the unlabeled drawing figures should be filed prior to the first action on the merits.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 12, 2004, using the drawings filed on that date.

Any 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
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P.O. Box 1450
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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of
Eric Mansfield and Richard Corney
Application No. 10/800,346
Filed: March 12, 2004
Attorney Docket Number: 1796031US2AP
Title of Invention: Merchandise Display Hook

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed August 2, 2004 (certificate of mailing July 30, 2004).

The petition is GRANTED.

Petitioner has shown the non-signing inventor Richard Corney 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 papers was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes 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.

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) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Richard E. Corney
4894 Provens Road
Akron, Ohio 44319

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SEP 0 9 2004

OFFICE OF PETITIONS

In re Application of
Eric Mansfield and Richard Corney
Application No. 10/800,346
Filed: March 12, 2004
Attorney Docket Number: 1796031US2AP
Title of Invention: Merchandise Display Hook

LETTER

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 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

FRED H. ZOLLINGER
SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON OH 44718-3615

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5-11-09 Paper No.: _____

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/800352 Patent No.: 7212184

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should Priority be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ 2629
SPE **Art Unit**

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of	:	
CHO et al	:	
Application No.: 10/800,377	:	DECISION ON PETITION
Filing Date: March 11, 2004	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: NOVLP089/NVLS-002886/002887	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed October 10. 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 11, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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P.O. Box 1450
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ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

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SEP 11 2006

OFFICE OF PETITIONS

In re Application of :
Nieto :
Application No. 10/800,379 : DECISION ON PETITION
Filed: March 12, 2004 : TO WITHDRAW
Attorney Docket No. 2940-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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 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.

All future correspondence will be directed to the first named inventor Jerry Nieto at 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: Jerry Nieto
16442 Whittler Lane
Huntington Beach, CA 92647

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FARSHAD JASON FARHADIAN
CENTURY IP LAW GROUP
P.O. BOX 7333
NEWPORT BEACH, CA 92658-7333

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MAY 02 2007

OFFICE OF PETITIONS

In re Application of :
GLUCK :
Application No.: 10/800,381 : DECISION ON PETITION
Filing Date: March 11, 2004 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 1005-8-01 USP :

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 17, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on June 18, 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 payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Bever, Hoffman & Harms, LLP
1730 Holmes Street, Building B
Livermore, CA 94550

Mail Date: 04/20/2010

Applicant	: Wing Yu Leung	: DECISION ON REQUEST FOR
Patent Number	: 7634707	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,382	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1021** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of :
DOI, et al. :
Application No. 10/800,387 : DECISION GRANTING PETITION
Filed: March 12, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **51747/P849** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 28, 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 10, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

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OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Robert S. FLESCH et al. :
Application No. 10/800,397 : ON PETITION
Filed: March 12, 2004 :
Attorney Docket No. 34812.3 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Final Office action mailed December 03, 2008, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 04, 2009.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, Request for Continued Examination, and the $405 filing fee; (2) the petition fee of $810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office Action of December 03, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until

the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6741 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2457 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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STROOCK & STROOCK & LAVAN, LLP
180 MAIDEN LANE
NEW YORK, NY 10038-492

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SEP 17 2007

OFFICE OF PETITIONS

In re Application of :
Ian COTTRELL et al. :
Application No. 10/800,407 :
Filed: March 12, 2004 :
Attorney Docket No. 257122.0044 :

ON PETITION

This is in response to the petition under 37 CFR 1.182, filed March 21, 2007, which is being treated as a petition under 37 CFR 1.36(a) requesting revocation of a power of attorney by fewer than all of the assignees of interest.

The petition is **GRANTED.**

Petitioner requests revocation of the power of attorney and the appointment of a new representative by fewer than all of the assignees of the entire interest of the applicant as good and sufficient reasons exist to accept the request.

On March 21, 2007 Max C. Marx (Marx) requests to revoke the Power of Attorney filed November 15, 2006. Marx claims that papers filed February 12, 2007 in application no. 10/567,635 violated an agreement between Hartz and Virbac.

On November 15, 2006 a Power of Attorney was filed. The Power of Attorney was signed by Max C. Marx in his position as corporate General Counsel & Corporate Secretary of Hartz and by Jean M. Nelson (Nelson) of Virbac. The position of Corporate Secretary is a position presumed to have authority to sign for an organization. See MPEP 324. However, the position of Nelson of Virbac is unreadable on the Power of Attorney. Therefore, Nelson cannot be presumed to have authority to sign the submission on behalf of the assignee. Nelson also has not set forth that he is authorized (or empowered) to act on behalf of the assignee, nor has applicants submitted a copy of a resolution showing that Nelson is empowered to sign the submission on behalf of Virbac.

For these reasons, the Power of Attorney filed November 15, 2006 is NOT APPROVED. The Power of Attorney and Correspondence Address will remain as the correspondence address and power of attorney currently of record.

Telephone inquiries regarding this decision should be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

Cc: Corey B. Blake
Bracewell & Guiliani LLP
P.O. Box 61389
Houston, TX 77208-1389

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Robert E. Krebs
THELEN REID & PRIEST, LLP
P.O. Box 640640
San Jose, CA 95164-0640

MAIL

AUG 0 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
Elliot Glazer et al.
Application No. 10/800,413
Filed: March 11, 2004
For: VIRTUAL REALITY SHOPPING EXPERIENCE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 10.40(c) filed February 22, 2005.

A Revocation and Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on March 17, 2005. The Power Of Attorney revoked all prior Powers Of Attorney and appointed the practitioners of customer number 05514 as the attorneys of record of the instant application. The Power Of Attorney filed March 17, 2005 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by the practitioners of customer number 05514.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Michelle R. Eason
for

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATTEN MUCHIN ROSENMAN LLP / ARBITRON INC.
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

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NOV 0 4 2008

OFFICE OF PETITIONS

In re Application of :
David Patrick FORR et al. :
Application No. 10/800,447 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 339198-00062 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 05, 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 July 7, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 4, 2008. Accordingly, the date of abandonment of this application is July 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The full surcharge fee of $1540, rather than the requested surcharge fee of $1440, has been charged to deposit account 50-1710.

Petitioner should note that his correct Registration No. is 48,196 not 48,916.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

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SEP 27 2006

OFFICE OF PETITIONS

In re Application of :
Emmanuel Hadji et al :
Application No. 10/800,450 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 33019US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 2, 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 October 26, 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 January 27, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $2160 extension of time submitted with the petition on June 2, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2818 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
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JUL - 9 2004

In re Application of	:	
Berner D. Johnson	:	
Serial No. 10/800,464	:	DECISION ON PETITION
Filed: March 15, 2004	:	TO MAKE SPECIAL
For: STABILIZING LANYARD FOR OPTICAL EQUIPMENT	:	

Applicant's petition, filed March 15, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Lisa Kimes Jones
10206 Olympia Drive
Houston, TX 77042

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SAN JOSE CA 95172-1120

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of :
Hardayal Singh Gill :
Application No. 10/800,465 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. :
HIT1P080/HSJ920040033US1

This is a decision on the petition under 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 issue and publication fees on or before May 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 2, 2007. Accordingly, the date of abandonment of this application is May 3, 2007. A Notice of Abandonment was mailed on May 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Cogswell, Richard	:	DECISION ON PETITION
Application No. 10/800,466	:	TO MAKE SPECIAL
Filed: March 15, 2004	:	37 CFR 1.102(C)
Attorney Docket No. 06694-003001	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 20, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition does not include any evidence showing the age of the applicant. Evidence may include a copy of the applicant's birth certificate or driver's license, or a statement from the applicant.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:	Mail Stop PETITION Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450
By hand:	U. S. Patent and Trademark Office Customer Service Window, Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By FAX:	(571) 273-8300

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3772 for action in its regular turn.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Cogswell, Richard	:	
Application No. 10/800,466	:	ON PETITION
Filed: March 15, 2004	:	
Attorney Docket No. 06694-003001	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed May 21, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's birth certificate. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3772 for action on the merits commensurate with this decision.

Liana Walsh
Petitions Examiner
Office of Petitions

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AUG 31 2009

OFFICE OF PETITIONS

In re Application of
Richard Cogswell
Application No. 10/800,466
Filed: March 15, 2004
Attorney Docket No. 06694-0003001

LETTER REGARDING
PATENT TERM ADJUSTMENT

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT", filed December 9, 2008. 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 800 days indicated on the Determination of Patent Term Adjustment, PTOL-85, may be longer than appropriate.

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 798 days.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is seven hundred ninety-eight (798)days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On September 19, 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 800 days. Applicants direct the office to the action dated March 23, 2008 where the Applicant should have allotted more time loss and the PTO should not have a 58 day delay.

A review of the record reveals that the initial determination of patent term adjustment of 800 days is incorrect.

A response to a Final Office Action mailed October 31, 2007 was incorrectly listed as having been filed on March 23, 2008. Thus, instead of a 60 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 61 days should have been accorded. Accordingly, the Office added 58 days of additional patent term for the mailing of the Notice of Allowance on September 19, 2008 and the Office's failure pursuant to 37 CFR 1.702(a)(2). However, since the proper date of the applicant reply was March 24, 2008, the proper amount of additional PTA relating to the Office reply should have been 57 days rather than the 58 days awarded.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance should have been 798 days rather than 800 days listed on the notice of allowance.

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

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: 16:19:24

PTA Calculations for Application: 10/800466			
Application Filing Date:	03/15/2004	PTO Delay (PTO):	860
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	60
Post-Issue Petitions:	0	Total PTA (days):	798
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
89	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		58	
88	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	57		
87	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	60		
86	08/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		61	
76	09/19/2008	MAIL NOTICE OF ALLOWANCE	58		38
75	09/15/2008	ISSUE REVISION COMPLETED			
74	09/15/2008	DOCUMENT VERIFICATION			
73	09/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
72	09/15/2008	NOTICE OF ALLOWABILITY			
71	09/11/2008	DATE FORWARDED TO EXAMINER			
70	06/19/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
69	06/09/2008	MAIL APPEALS CONF. PROCEED TO BPAI			
68	06/02/2008	PRE-APPEALS CONFERENCE DECISION - PROCEED TO BPAI			
67	04/23/2008	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
66	04/23/2008	NOTICE OF APPEAL FILED			
65	04/23/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
64	04/09/2008	MAIL ADVISORY ACTION (PTOL - 303)			
63	04/04/2008	ADVISORY ACTION (PTOL-303)			
39	04/01/2008	DATE FORWARDED TO EXAMINER			
38	03/23/2008	AMENDMENT AFTER FINAL REJECTION		60	31
37	03/23/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
		MAIL EXAMINER INTERVIEW SUMMARY (PTOL			

33	03/27/2008	- 413)			
32	03/20/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
31	10/23/2007	MAIL FINAL REJECTION (PTOL - 326)			
30	10/22/2007	FINAL REJECTION			
29	09/19/2007	NEW OR ADDITIONAL DRAWING FILED			
28	09/25/2007	DATE FORWARDED TO EXAMINER			
27	09/19/2007	RESPONSE AFTER NON-FINAL ACTION			
26	08/06/2007	MAIL SUPPLEMENTAL NON-FINAL ACTION			
25	08/02/2007	SUPPLEMENTAL NON-FINAL ACTION			
24	07/26/2007	MAIL NON-FINAL REJECTION	802		-1
23	07/23/2007	NON-FINAL REJECTION			
22	03/15/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	06/27/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO MAKE SPECIAL			
20	04/24/2007	MISCELLANEOUS INCOMING LETTER			
19	05/21/2007	PETITION ENTERED			
18	05/07/2007	MAIL-PETITION DECISION - DISMISSED			
17	03/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	02/20/2007	PETITION ENTERED			
15	05/23/2005	MISCELLANEOUS INCOMING LETTER			
14	10/27/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/15/2004	REFERENCE CAPTURE ON IDS			
12.7	03/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/15/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/28/2006	MISCELLANEOUS INCOMING LETTER			
10	02/13/2006	MISCELLANEOUS INCOMING LETTER			
9	10/26/2005	MISCELLANEOUS INCOMING LETTER			
8	06/01/2004	APPLICATION RETURN FROM OIPE			
7	06/01/2004	APPLICATION RETURN TO OIPE			
6	06/01/2004	APPLICATION DISPATCHED FROM OIPE			
5	06/02/2004	APPLICATION IS NOW COMPLETE			
4	04/12/2004	CLEARED BY OIPE CSR			
3	04/12/2004	CASE CLASSIFIED BY OIPE			
2	04/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	03/15/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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OFFICE OF PETITIONS

In re Application of :
Rumo Satake et al :
Application No. 10/800,483 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 0553-0133.02 :

This is a decision on the petition, filed April 27, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 19, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2871 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Stephen H. Doctor
MCDONNELL BOEHNEN HULBET & BERGHOFF
300 South Wacker
Suite 3200
Chicago, IL 60606

In re Application of:
SIRNA THERAPEUTICS, INC.
PCT No.: PCT/US02/15876
International Filing Date: 17 May 2002
Priority Date: 18 May 2001
Attorney's Docket No.: 02-312-PCT;600.019
For: CONJUGATES AND COMPOSITIONS FOR CELLULAR DELIVERY

DECISION ON PETITION UNDER 37 CFR 1.10

This decision is issued in response to the "Petition To Accord Express Mail 'Date In' As Filing Date" filed 03 August 2004, treated herein under 37 CFR 1.10(c). The petition seeks to correct the international filing date to 17 May 2002. No petition fee is required.

BACKGROUND

Applicant initiated this international application by filing a Request (Form PCT/RO/101) and accompanying materials via "Express Mail" label number EL602855817US. The transmittal letter filed with the application materials lists this "Express Mail" label number, and identifies the date of deposit as 17 May 2002.

On 20 June 2002, the RO/US mailed a "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) identifying 20 May 2002 as the international filing date.

On 03 August 2004, applicant filed the petition considered herein. The petition seeks correction of the international filing date to 17 May 2002, the date on which applicant claims the application was deposited with the USPS. The submission includes, among other materials, a copy of the customer receipt for Express Mail label number EL602855817US, which bears a "date in" of 17 May 2002.

DISCUSSION

The present international application was accorded an international filing date of 20 May 2002. Applicant asserts that the proper international filing date is 17 May 2002, the date on which the Express Mail envelope containing the application materials was deposited with the USPS. As noted above, applicant has supplied a copy of the customer receipt for the Express

Mail envelope bearing a "date in" of 17 May 2002, and the Express Mail label number for this envelope was identified on the transmittal letter filed with the application papers. In addition, the USPTO Express Mail database identifies 17 May 2002 as the date on which this Express Mail envelope was accepted by the USPS.

Based on applicant's statements, the Express Mail database acceptance date of 17 May 2002, and the 17 May 2002 "date in" entered by the USPS on the Express Mail label, it is concluded that the present application was deposited as "Express Mail" with the USPS on 17 May 2002. Accordingly, pursuant to 37 CFR 1.10(c), the international filing date is appropriately corrected to 17 May 2002.

CONCLUSION

Applicant's petition for correction of the international filing date is **GRANTED.**

The international filing date is corrected to **17 May 2002.** The "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) mailed 20 June 2002, which identified 20 May 2002 as the international filing date, is hereby **VACATED.**

A corrected "Notification Of The International Application Number And Of The International Filing Date" (Form PCT/RO/105) which correctly identifies the international filing date as **17 May 2002** is issued herewith. Copies of this decision and the corrected Form PCT/RO/105 will be forwarded to the International Bureau.

This application is being forwarded to the RO/US for further processing in accordance with this decision.

Richard M. Ross
PCT Petitions Attorney
PCT Legal Office
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

In re Application of
Daniel Perlman
Application No. 10/800,492
Filed: March 15, 2004
Attorney Docket No. PERL.03.01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 13, 2006. The Notice of Abandonment was mailed January 19, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 1751 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

Applicant	: Brian D. Goers	: DECISION ON REQUEST FOR
Patent Number	: 7641538	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Matthew David Bomhoff	: DECISION ON REQUEST FOR
Patent Number	: 7619981	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,529	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1164** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of :
Achilefu et al. :
Application No. 10/800,531 : DECISION REFUSING STATUS
Filed: March 15, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. MRD/64CP :

This is in response to the petition under 37 CFR 1.47(a), filed July 30, 2004 (certificate of mailing July 27, 2004). Applicants obtained a one-month extension of time to reply. Accordingly, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing 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 March 15, 2004, without an executed declaration. Accordingly, on April 27, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed declaration and a surcharge for the late filing of the declaration.

In response, on July 30, 2004 (certificate of mailing July 27, 2004), applicants filed the present petition, a declaration signed by 4 out of 5 joint inventors, and paid the necessary fees.

In the Declaration of Facts, Tammy Torres stated that Dr. Achilefu indicated receipt of the Declaration and Assignment for another pending U.S. Application, No. 10/680,338, but was unwilling to review the documents without compensation. Ms. Torres further stated that based on Dr. Achilefu's comments and position with regard to Application No. 10/680,338, no further attempts were made to pursue his execution of the same documents for the subject application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicants lack item (1) as set forth above.

As to item (1), Dr. Achilefu was not presented with a copy of the complete application papers for the subject application. Unless Dr. Achilefu was presented with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not sign the declaration that he was given. Accordingly, applicants failed to show or provide proof that Dr. Achilefu, the nonsigning inventor, has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to Dr. Achilefu, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-2895.

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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

COPY MAILED

NOV 12 2004

OFFICE OF PETITIONS

In re Application of	:	
Achilefu et al.	:	
Application No. 10/800,531	:	DECISION GRANTING STATUS
Filed: March 15, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. MRD-64CP	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed September 28, 2004.

The petition is granted.

Petitioner has shown that Dr. Samuel Achilefu, 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 Beverly A. Lyman, Ph.D, Esquire establishes that the inventor was presented with the application papers, including the specification, claims and drawings, but failed to respond to 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.

This matter will be referred to Technology Center Art Unit 1616 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Samuel Achilefu, Ph.D.
3424 San Seville Court
St. Louis, MO 63044

COPY MAILED

NOV 12 2004

OFFICE OF PETITIONS

In re Application of :
Achilefu et al. :
Application No. 10/800,531 : LETTER
Filed: March 15, 2004 :
Attorney Docket No. MRD-64CP :

Dear Dr. Achilefu:

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

WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET, 28TH FLOOR
COLUMBUS, OH 43215

COPY MAILED

JUN 18 2008

OFFICE OF PETITIONS

In re Application of :
Ting He et al :
Application No. 10/800,553 :
Filed: March 15, 2004 :
Attorney Docket No. 3994994-149832 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 16, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 17, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1792 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

PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS OH 43215

In re Application of	:	
HE, TING et al.,	:	JUL 19 2010
Application No.: 10/800,553	:	DECISION ON
Filing or 371(c) Date: March 15, 2004	:	PETITION
Attorney Docket Number: 3994994-149832	:	

This is a decision in response to the "Notice to Withdraw Holding of Abandonment," filed October 30, 2009.

This petition is **DISMISSED**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowability, mailed June 10, 2009. The Notice set a non-extendable three 3(3) month period for reply. No reply having been received, the application became abandoned on October 14, 2009.

The Notice of Allowability

A review of the Notice of Allowability reveals that the Notice clearly required drawings. The Notice states: "CORRECTED DRAWINGS must be submitted."

The statute, 35 U.S.C. § 133, Time for prosecuting application, states

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Here, Applicant filed a reply on June 19, 2009, to with – the issue fee; however, corrected drawings were also required. Applicant failed to timely file corrected drawings. The application was properly abandoned.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES 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 BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Huayan Amy Wang :
Application No. 10/800,556 : NOTICE
Filed: March 15, 2004 :
Attorney Docket No. A35948 – 072797.0223

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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508 MERCANTILE LIBRARY BLDG.
414 WALNUT STREET
CINCINNATI OH 45202-3913

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JUL 07 2008

In re Application of

Anthony M. Iannelli

Application No. 10/800,563

Filed: March 15, 2004

Attorney Docket No. US-0204-I

DECISION ON PETITION

This is regarding the "Request to Modify Notice of Abandonment" filed September 8, 2006. The request will be treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on December 23, 2005, after it was believed a proper response was not filed to final Office action mailed September 22, 2005, which set a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed on April 26, 2006.

The instant petition maintains that PCT continuation-in-part application was filed on March 22, 2006, that was intended to be a response to the final Office action. The PCT continuation-in-part application was accompanied by a request for an extension of time within the third month. A review of USPTO record reveals that application PCT/US06/10288 was filed on March 22, 2006, as is of record. It is noted that application PCT/US/06/10288 indicates in the first sentence of the specification that it is a continuation-in-part of application 10/800,563. Because a response was filed with the Office prior to the expiration of the period for reply, the petition is granted and the holding of abandonment withdrawn.

The instant application is again abandoned in favor of the continuation-in-part application filed March 22, 2006.

Questions regarding 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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

04/23/04

Weingarten, Schurgin, Gagnebin & Levovici
Bevrerly E. Hjorth
Ten Post Office Square
Boston, MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/800573 received on 04/05/04 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

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: James C. Weaver	: DECISION ON REQUEST FOR
Patent Number	: 7597692	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,587	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1383** 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

Stephen Truesdale Carney
191 Spring Road
North Kingstown RI 02852

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of Carney :
Application No. 10/800,608 : Decision on Petition
Filing Date: March 15, 2004 :
For: Alfalfa Sprout Powder Based :
Supplement :

This is a decision on the petition under 37 CFR 1.137(a), filed August 8, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

"[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."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

Facts:

A non-final Office action was mailed January 13, 2006. The Office action set a shortened statutory period for reply of three (3) months.

Petitioner asserts a reply was timely filed in response to the non-final Office action.

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[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Office records do not indicate receipt of a timely reply. As a result, the application became abandoned on April 14, 2006.

A copy of the reply was filed July 28, 2006.

A Notice of Abandonment was mailed July 31, 2006.

Discussion:

Petitioner states the reply was submitted electronically but has not submitted any evidence, beyond the statement, to establish a reply was timely filed. The Office notes petitioner has not stated the date the reply was submitted. Petitioner has failed to establish petitioner's knowledge of the electronic filing system, and rules pertaining to the system. Petitioner has failed to discuss the exact steps taken by petitioner to ensure the amendment was properly transmitted. Petitioner has failed to discuss reasons an additional copy of the papers was not sent by mail or facsimile transmission when petitioner failed to receive any verification of receipt of the electronic submission from the Office.

A reasonable and prudent person, unfamiliar with electronic filing practice, would have filed papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay.[4]

The record fails to prove the delay in the submission of the amendment was unavoidable.

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 (already submitted), 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.

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 permitted.

Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (571) 273-8300
Attn: Office of Petitions

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[4] "The procedures set out in the PTO's regulations are designed to provide the type of direct evidence needed to prove when and to where a lost amendment [or other paper] was sent. Had plaintiff's counsel followed these procedures, as a 'prudent and careful man' would have done in conducting 'his most important business,' then he would have been able to provide sufficient evidence to support a showing of unavoidable delay." Krahn v. Commissioner of Patents and Trademarks, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990).

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Petition under 37 CFR 1.137(b) Form

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. 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.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen Truesdale Carney
191 Spring Road
North Kingstown RI 02852

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NOV 06 2006
OFFICE OF PETITIONS

In re Application of Carney :
Application No. 10/800,608 :
Filing Date: March 15, 2004 :
For: Alfalfa Sprout Powder Based Supplement :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed October 24, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

"[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."[1] The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[2] A lack of knowledge of, or failure to understand, a PTO rule, the content of the MPEP, or an Official Gazette notice will not constitute unavoidable delay.[3]

The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a).

Facts:

A non-final Office action was mailed January 13, 2006. The Office action set a shortened statutory period for reply of three (3) months.

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 1912).

[3] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

On an unknown date, petitioner attempted to electronically file an amendment. The Office notes the amendment header lists a date of April 27, 2006.

Office records do not indicate receipt of a reply to the non-final Office action. As a result, the application became abandoned on April 14, 2006.

The petition states, "On or about February 2006, in a phone conversation with [the examiner], she requested an affidavit."

On an unknown date, petitioner began sending emails to Dr. Lawrence Rink, who had conducted a clinical trial related to the invention. Petitioner states Dr. Rink was out of the country and returned near the end of July of 2006. Petitioner subsequently filed a copy of the amendment and affidavit on July 28, 2006.

A Notice of Abandonment was mailed July 31, 2006.

A petition under 37 CFR 1.137(a) was filed August 8, 2006. The petition was dismissed on October 13, 2006. The instant petition was filed October 24, 2006.

Discussion:

The original amendment filed in response to the non-final Office action:

The petition fails to discuss the exact date the amendment was filed. However, the amendment header lists a date of April 27, 2006. A reply was due by April 13, 2006, absent payment for a one-month extension of time. Petitioner has failed to explain the reasons a request for a one-month extension of time was not filed.

Petitioner states the reply was submitted electronically but has not submitted any evidence, beyond the statement, to establish a reply was timely filed. The Office notes petitioner has not stated the date the reply was submitted. Petitioner has failed to establish petitioner's knowledge of the electronic filing system, and rules pertaining to the system. Petitioner has failed to discuss the exact steps taken by petitioner to ensure the amendment was properly transmitted. Petitioner has failed to discuss reasons an additional copy of the papers was not sent by mail or facsimile transmission when petitioner failed to receive any verification of receipt of the electronic submission from the Office.

A reasonable and prudent person, unfamiliar with electronic filing practice, would have filed papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay.[4]

[4] "The procedures set out in the PTO's regulations are designed to provide the type of direct evidence needed to prove when and to where a lost amendment [or other paper] was sent. Had plaintiff's counsel followed these procedures, as a 'prudent and careful man' would have done in conducting 'his most important business,' then he would have been able to provide sufficient evidence to support a showing of unavoidable delay." Krahn v. Commissioner of Patents and Trademarks, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990).

The affidavit:

Petitioner has failed to establish a proper reply, such as a proper amendment, could not be filed in response to the non-final Office action without including the affidavit. The fact the affidavit could have improved the value of the reply does not prove a reply could not have been filed without the affidavit. Petitioner has not shown he was unable to file any reply to prevent the application from becoming abandoned.

Petitioner has failed to fully discuss dates he attempted to contact Rink. Petitioner has failed to discuss reasons Rink was unable to send a signed affidavit to petitioner via facsimile transmission, mail, or other method.

The request for reconsideration states petitioner did not obtain a signed affidavit from Rink until the end of July of 2006. However, the affidavit was signed by Rink on April 4, 2006. Petitioner has failed to explain the reason the affidavit could not have been filed during April of 2006. The Office notes a timely reply could have been filed, with a request for a three-month extension of time, as late as July 13, 2006.

The request for reconsideration fails to prove the delay in the submission of a proper reply was unavoidable.

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 (already submitted), 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.

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 permitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen Truesdale Carney
191 Spring Road
North Kingstown RI 02852

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JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of Carney :
Application No. 10/800,608 :
Filing Date: March 15, 2004 :
For: Alfalfa Sprout Powder Based Supplement :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2006, to revive the above-identified application.

The petition is **granted**.

A non-final Office action was mailed January 13, 2006. The Office action set a shortened statutory period for reply of three (3) months.

On an unknown date, petitioner attempted to electronically file an amendment. The Office notes the amendment header lists a date of April 27, 2006.

Office records do not indicate receipt of a reply to the non-final Office action. As a result, the application became abandoned on April 14, 2006.

A Notice of Abandonment was mailed July 31, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1655 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

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Hideo Ando et al	:	
Application No. 10/800,626	:	ON PETITION
Filed: March 16, 2004	:	
Attorney Docket No. 249736US2SDIV	:	

This is a decision on the petition, filed February 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 20, 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 2616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Patent No. 6,990,808 :
Issue Date: January 31, 2006 :
Application No. 10/800,638 : DECISION ON PETITION
Filed: March 16, 2004 :
Atty Dkt No. 0666.1000002/TGD/ALF :

This is a decision on the petition under 37 CFR 1.182, filed May 5, 2006, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250, Ext. 139.

A copy of this decision is being forwarded to Publishing Division for processing issuance of a duplicate Letters Patent.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 08C32 (FAX 571-273-9756)

OIPE IAP3
MAY 05 2006
PATENT AND TRADEMARK OFFICE

-IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 1143
ABEND *et al.*	Art Unit: 3745
Patent No.: 6,990,808	Examiner: Igor Kershteyn
Issue Date: January 31, 2006	Atty. Docket: 0666.1000002/TGD/JHH
For: **Axle Driving System**	

Petition for Duplicate Letters Patent

RECEIVED
MAY 16 2006
OFFICE OF PETITIONS

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

It is hereby petitioned under 37 C.F.R. § 1.182 that a duplicate letters patent be issued in the above-captioned application because the original letters patent was mailed from the United States Patent and Trademark Office (USPTO) on January 31, 2006 to our office and, to date, we have not received the letters patent.

It is believed that the letters patent has been lost in the mail.

This petition is accompanied by the required fee (37 C.F.R. § 1.17(f)). The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Tracy-Gene G. Durkin
Attorney for Applicants
Registration No. 32,831

Date: May 5, 2006

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600
525330

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Sterne Kessler Goldstein Fox
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OIPE IAP3
MAY 05 2006
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Of Counsel
Edward J. Kessler
Kenneth C. Bass III
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*Admitted only in Maryland
*Admitted only in Virginia
•Practice Limited to Federal Agencies

May 5, 2006

WRITER'S DIRECT NUMBER:
(202) 772-8660
INTERNET ADDRESS:
TDURKIN@SKGF.COM

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Art Unit 3745

Attn: Mail Stop Petition

Re: U.S. Patent No. 6,990,808; Issued: January 31, 2006
For: **Axle Driving System**
Inventors: ABEND *et al.*
Our Ref: 0666.1000002/TGD/JHH

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Petition for Duplicate Letters Patent;

2. Credit Card Payment Form (PTO-2038) in the amount of $400.00 to cover petition fee; and

3. Return postcard.

It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

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MAY 16 2006
OFFICE OF PETITIONS

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Tracy-Gene G. Durkin
Attorney for Patentees
Registration No. 32,831

TGD/JHH/hmb
Enclosures

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UNITED STATES PATENT AND TRADEMARK OFFICE

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Shinichi Kikuchi et al :
Application No. 10/800,686 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 249806US-2S DIV :

This is a decision on the petition, filed March 3, 1006, 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 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2616 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

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United States Patent and Trademark Office
P.O. Box 1450
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VOLENTINE FRANCOS, & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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AUG 14 2006

OFFICE OF PETITIONS

In re Application of :
Shinji Ohuchi :
Application No. 10/800,693 :
Filed: March 16, 2004 :
Attorney Docket No.: KKH.041D2 :

ON PETITION

This is a decision on the petition filed June 29, 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 August 18, 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 November 21, 2005. Accordingly, a Notice of Abandonment was mailed April 6, 2006.

This matter is being referred to Technology Center 2814 for appropriate action on the amendment filed June 29, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Johnny A. Kumar
HELLER EHRMAN WHITE & MCAULIFFE LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

SEP 25 2006

In re Application of ONO et al
Appl. No.: 10/800,714
Filed: March 16, 2004
For: SLEEP APNEA SYNDROME DIAGNOSING DEVICE AND SIGNAL ANALYZER AND METHODS THEREOF

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed August 17, 2005, to expunge information from the above identified application. The petition included a check for $130, the requisite fee under 37 CFR 1.17(h). Office records indicate a fee of $130 has been paid.

Petitions to expunge require a fee of $200 as set forth in 37 CFR 1.59 and 37 CFR 1.17(g). No authorization to charge the fee deficiency is seen in the file.

The petition is dismissed.

Petitioner requests that the Information Disclosure Statement filed July 27, 2005, be expunged from the record. Petitioner alleges the IDS was not intended for the instant application.

The petition is deficient because:

1. The petition fails to state 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.

2. The petition fails to state that the information has not otherwise been made public.

3. The petition does not contain a commitment on the part of petitioner to retain the information to be expunged for the life of any patent with regard to which such information has been submitted.

4. The petition does not contain the appropriate fee as required under 37 CFR 1.17 (g).

Petitioner may request reconsideration of the petition. Any such request must be resubmitted within two months of the mailing date of this decision and supply the omitted statements and omitted fee. See MPEP 724.05II

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449.

PETITION DISMISSED.

Karen M. Young

for 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
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Alexandria, Virginia 22313-1450
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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Jimmy S. Wong	: DECISION ON REQUEST FOR
Patent Number	: 7626985	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1181** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/17/2010

Applicant : Jimmy S. Wong
Patent Number : 7626985
Issue Date : 12/01/2009
Application No: 10/800,731
Filed : 03/16/2004

: 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 **1215** 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
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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: KODAMA
Application No. 10/800,737
Filed: March 16, 2004
For: MORE GRANULAR AND MORE EFFICIENT WRITE PROTECTION FOR DISK VOLUMES

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-8-09 Paper No.: _____

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/800744 Patent No.: 7321151

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Please check Figs.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

THAO XUAN LE
SUPERVISORY PATENT EXAMINER
SPE

2892
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 11 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
KIKUCHI, SHINICHI, et al. :
Application No. 10/800,761 : DECISION ON PETITION
Filed: March 16, 2004 : TO MAKE SPECIAL
For: **DIGITAL VIDEO SYSTEM** :

This is a decision on the petition filed March 10, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
571-272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Steven W. Weinrieb
Law Offices Of Steven W. Weinrieb
8717 Cold Spring Road
Potomac, MD 20854

Mail Date: 04/26/2010

Applicant	: Michael J. McMahon	: DECISION ON REQUEST FOR
Patent Number	: 7597525	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/800,765	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** 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.

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)
6964704	2005-11-15	10/800,780	2004-03-15	10350-1020

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	/Cynthia J. Lee/	Date (YYYY-MM-DD)	2010-01-27
Name	Cynthia J. Lee	Registration Number	46033

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. 6964704
Issue Date: November 15,2005
Application No. 10800780
Filed: March 15,2004
Attorney Docket No. 010350-1020

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 27,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 27,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Christopher J. Whewell
Western Patent Group
6020 Tonkowa Trail
Georgetown, TX 78628

COPY MAILED

JUL 0 9 2007

OFFICE OF PETITIONS

In re Application of :
Helton, et al. :
Application No. 10/800,788 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 031004 :

This is a decision on the petition under 37 CFR 1.182(a), filed January 24, 2007, to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

1. Danny O. Helton
2. David W. Hobson

A corrected filing receipt is enclosed.

The fee for the instant petition is $400.00. Accordingly, deposit account 50-0818 will be charged an additional $270.00

The application file is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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	TOT CLMS	IND CLMS
10/800,788	03/16/2004	1751	863	031004	62	3

CONFIRMATION NO. 9204

Christopher J. Whewell
Western Patent Group
6020 Tonkowa Trail
Georgetown, TX 78628

CORRECTED FILING RECEIPT

OC000000024716122

Date Mailed: 07/09/2007

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)

Danny O. Helton, Newberry, FL;
David W. Hobson, San Antonio, TX;

Power of Attorney:

Christopher Whewell--37469

Domestic Priority data as claimed by applicant

This application is a CIP of 10/752,430 01/06/2004 PAT 7,005,549
which claims benefit of 60/438,114 01/06/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/03/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/800,788

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

ORGANIC PEROXYACID PRECURSORS

Preliminary Class

568

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

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Alexandria, VA 22313-1450
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Michael S. Leonard
Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago IL 60690-1135

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SEP 23 2008

In re Application of	:	
Daisuke Kozuka, et al.	:	
Application No. 10/800,794	:	ON PETITION
Filed: March 15, 2004	:	
Attorney Docket No. 112780-042	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 7, 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 August 17, 2006 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 18, 2006. The Notice of Abandonment was mailed April 4, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of

this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The change of address filed herewith petition was not entered because it was not signed by an attorney of record. Michael S. Leonard was never given power attorney, he was listed to receive correspondences.

Also, the terminal disclaimer is not required for this petition since this utility/plant patent application was filed after June 8, 1995. Furthermore, since Michael S. Leonard is not an attorney or record, the terminal disclaimer is not accepted.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3753 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Michael S. Leonard**
Everest Intellectual Property Law Group
P.O. Box 708
Northbrook, IL 60065

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

APR 12 2010

OFFICE OF PETITIONS

In re Patent of Kozuka et al.	:	DECISION ON REQUEST
Patent No. 7,578,313	:	FOR RECONSIDERATION OF
Issue Date: August 25, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/800,794	:	AND NOTICE OF INTENT TO
Filing Date: March 15, 2004	:	ISSUE CERTIFICATE OF
Atty. Docket No. 23697-0041001/NF-2623	:	CORRECTION

This is a decision on the petition filed on October 26, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by eight hundred eighty-three (883) 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 eight hundred eighty-three (883) days is **GRANTED**.

The period of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") is 681 days and is not in dispute.

The petition asserts and establishes the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 894 days.

The petition asserts and establishes the amount of overlap between A Delay and B Delay is 222 days.

As part of Patentees' duty of good faith and candor, the petition asserts and establishes the patent term adjustment should have included a reduction of 21 days under 37 C.F.R. § 1.704(c)(8) as a result of the interview summary filed May 8, 2009.

The patent term adjustment is 883 days which is the sum of 681 days of A Delay and 894 days of B Delay reduced by 222 days of overlap and reduced by 470 (449 + 21) days of Applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **eight hundred eighty-three (883)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,578,313 B2
ISSUE DATE	:	August 25, 2009
INVENTOR(S)	:	Kozuka et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 445 days.

Delete the phrase "by 445 days" and insert - by 883 days--

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Alexandria, VA 22313-1450
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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE.1005
SEATTLE, WA 98101

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey A. Von Arx, et al.	:	
Application No. 10/800,806	:	DECISION ON PETITION
Filed: March 15, 2004	:	TO WITHDRAW
Attorney Docket No. 003.0585.US.CON	:	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 26, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Cascadia Intellectual Property has been revoked by the assignee of the patent application on February 16, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PAULY, DEVRIES, SMITH & DEFFNER, LLC
PLAZA VII-SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JUL 30 2004

OFFICE OF PETITIONS

In re Application of :
Sharp et al. :
Application No. 10/800,813 :
Filed: March 15, 2004 : NOTICE
Attorney Docket No. :
NOVCEL.028C1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This file is an Image File Wrapper file and, as such, no forwarding of the file is necessary. Processing of the application by the Office of Initial Patent Examination continues in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CARR & FERRELL LLPL
2200 GENG ROAD
PALO ALTO, CA 94303

COPY MAILED

JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Kerry Dennis Brown	:	
Application No. 10/800,821	:	DECISION ON PETITION
Filed: March 15, 2004	:	TO WITHFRAW
Attorney Docket No. MLF 670-03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.136(b) filed February 15, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Carr & Ferrell LLP has been revoked by the assignee of the patent application on September 7, 2007. Accordingly, the request to withdraw under 37 CFR 1.136(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 inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

David Bucci
Petitions Examiner
Office of Petitions

Cc: RICHARD B. MAIN, ESQ.
PATENTS PENDING
9832 LOIS STILTNER CT.
ELK GROVE CA 95624

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

COPY MAILED
MAY 2 3 2006
OFFICE OF PETITIONS

In re Application of Beitner :
Application No. 10/800,850 : Decision on Petition
Filing Date: March 15, 2004 :
Attorney Docket No. YOR920030467US1 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 23, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 22, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 23, 2005. A Notice of Abandonment was mailed on October 24, 2005.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The issue fee and publication fee have been charged to petitioner's deposit account.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division within **ONE MONTH** from the mail date of this decision.

The Office of Patent Publications will be informed of the instant decision and will issue the application as a patent 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

Enclosure: PTOL-85b Form

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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United States Patent and Trademark Office
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F CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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AUG 1 0 2009

OFFICE OF PETITIONS

In re Application of :
Hyung-Guen Lee :
Application No. 10/800,895 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 8021-206 (SS-19083-US) :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 1, 2008. The petition was recently forwarded to the Office of Petitions for consideration.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability mailed October 3, 2007. This Notice set a statutory period for reply of three (3) months. No corrected drawings having been received, the application became abandoned on March 4, 2009. The Office mailed a Notice of Abandonment on January 29, 2008.

Petitioner argues that the Examiner already made the correction required by the Notice of Allowability in the Examiner's Amendment. Petitioner's argument has been considered, but is not persuasive. The Notice of Allowability specifically set forth that applicant was required to submit corrected drawings, including changes required by the Examiner's Amendment. In the Examiner's Amendment, the Examiner wrote in "(Prior Art)" after Fig. 1. As such, the Notice of Allowability required that Applicant submit a corrected drawing sheet with "(Prior Art)" appearing after Fig. 1.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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F CHAU & ASSOCIATES LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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NOV 18 2009

OFFICE OF PETITIONS

In re Application of :
Hyung-Guen Lee :
Application No. 10/800,895 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 8021-206 (SS-19083-US) :

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 9, 2009.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability mailed October 3, 2007. This Notice set a statutory period for reply of three (3) months. No corrected drawings having been received, the application became abandoned on March 4, 2009. The Office mailed a Notice of Abandonment on January 29, 2008.

Applicant filed a petition to withdraw the holding of abandonment on February 1, 2008. Petitioner argued that the Examiner already made the correction required by the Notice of Allowability in the Examiner's Amendment. However, the petition was dismissed in a decision mailed on August 10, 2009. The decision pointed out

that the Notice of Allowability specifically set forth that applicant was required to submit corrected drawings, including changes required by the Examiner's Amendment. In the Examiner's Amendment, the Examiner wrote in "(Prior Art)" after Fig. 1. As such, the Notice of Allowability required that Applicant submit a corrected drawing sheet with "(Prior Art)" appearing after Fig. 1.

On renewed petition, Applicant points out that because the Examiner indicated that Figure 1 "has been labeled" 'Prior Art', and because he wrote "Approved", followed by his initials and the date on the left side, it signaled to Applicant that the corrections had been made and approved. This is true - however, Applicant still needed to submit a formal drawing sheet with the correction entered, as indicated by the Notice of Allowability. It is noted that the Examiner hand-wrote on the drawing sheet "Prior Art". Clearly, the drawings could not issue as a patent with this informality, or with the "Approved" entry on the left hand side of the drawing.

Applicant may seek to revive the application by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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F CHAU & ASSOCIATES LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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JAN 27 2010

OFFICE OF PETITIONS

In re Application of :
Hyung-Guen Lee :
Application No. 10/800,895 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 8021-206 (SS-19083-US) :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed December 30, 2009.

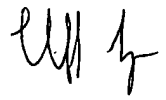
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability mailed October 3, 2007. This Notice set a statutory period for reply of three (3) months. No corrected drawings having been received, the application became abandoned on March 4, 2009. The Office mailed a Notice of Abandonment on January 29, 2008. Applicant filed petitions under 37 CFR 1.181 to withdraw the holding of abandonment on February 1, 2008 and October 9, 2009. However, the petitions were dismissed in decisions mailed on August 10, 2009 and November 18, 2009, respectively.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of corrected 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

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OCT - 7 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

THOMAS R. LAMPE
BIELEN, LAMPE & THOEMING
1390 WILLOW PASS ROAD, SUITE 1020
CONCORD CA 94520

In re Application of
Steve Sanchez
Application No. 10/800,896
Filed: March 15, 2004
For: **FLAT PANEL TV SCREEN FRAME SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed September 19, 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

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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AUG 1 1 2008

OFFICE OF PETITIONS

In re Application of
Nobori et al.
Application No. 10/800,941
Filed: March 15, 2004
Attorney Docket No. 5077-034/DVA

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 9, 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 10, 2007. A Notice of Abandonment was mailed April 1, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,540.00, and (3) an adequate statement of unintentional delay.

Further, the address given on the petition differs from the 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 2621 for appropriate action by the Examiner in the normal course of business on the reply received.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Gregory A. Stobbs
5445 Corporate Drive, Suite 200
Troy, MI 48098

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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MAR 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
William Park, Vaughn Marian	:	
David Petersen, Todor Sheljaskow,	:	
Mursaid Bolorforosh,	:	
Worth Walters, and Sevig Ayter	:	
Application No. 10/800,950	:	DECISION REFUSING STATUS
Filed: March 15, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 2003P19072US	:	
FOR: SYSTEM AND METHOD FOR	:	
ACTIVELY COOLING TRANSDUCER	:	
ASSEMBLY ELECTRONICS	:	

This is a decision on the PETITION TO PERMIT FILING A PATENT APPLICATION WHEN AN INVENTOR REFUSES OR CANNOT BE REACHED TO SIGN THE OATH OR DECLARATION (37 C.F.R. § 1.47)," filed November 30, 2004.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicants are 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 March 15, 2004, without an executed oath or declaration. On June 1, 2004, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requesting an executed oath or

declaration and the surcharge for its late filing. This Notice set a two-month period for response, with extensions of time obtainable under § 1.136(a).

On November 30, 2004, applicants filed the instant petition, made timely by an accompanying petition and fee for extension within the fourth month. The petition included the late surcharge and authorization to charge any required fees to a Deposit Account. Pursuant to this authorization, the petition fee has been charged to the Deposit Account. Accompanying the petition was a declaration executed by joint inventors Park, Marian, Petersen, Sheljaskow, Walters and Ayter on behalf of themselves and on behalf of non-signing joint inventor Bolorforosh. Petitioner states that status under § 1.47(a) is proper because inventor Bolorforosh refuses to join in the application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The petition does not satisfy requirement (1).

Rule 47 applicants have failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. Patent Attorney Jenny Ko presents evidence that the application papers were mailed to inventor Bolorforosh at an address in California. The evidence does not indicate that the papers were sent certified mail return receipt, or by any other means, which would provide for acknowledgment of receipt by signature of recipient. Moreover, attorney Ko includes evidence indicating that the address used is inappropriate. In an email to Human Resources, attorney Ko states "I've heard that this address is no longer applicable, as he may have moved to Schenectedy, NY." Yet, unable to obtain a forwarding address from Human Resources, attorney Ko continues to attempt to reach inventor Bolorforosh at the California address. Applicant's evidence confirms mailing of the application papers, but not receipt by non-signing inventor Bolorforosh. Moreover, applicant has not submitted direct evidence of refusal. The presentation of the application papers to an address at which the attorney believes is no longer applicable does not serve as adequate support for a claim of refusal by conduct. A showing that an inventor has not

responded to a communication that he has not received is not sufficient to show refusal to join in the application by conduct; on those facts, refusal cannot be inferred.

Under such circumstances, status under §1.47(a) is properly sought with a showing that the non-signing inventor cannot be reached or found, after diligent efforts, to execute the declaration. In this instance, applicant has not shown diligent efforts to locate inventor Bolorforosh. There is no indication that Rule 47 applicants took further action to determine inventor Bolorforosh's forwarding address, and to send the application papers to that address for consideration by inventor Bolorforosh. See MPEP 409.03(d). If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate non-signing inventor Bolorforosh should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should submit documentary evidence such as the results of an E-mail or Internet search.

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 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
DIW 03-05

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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MAR 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Braig, Rule, Hartstein, and Smith	:	DECISION REFUSING STATUS
Application No. 10/913,666	:	UNDER 37 CFR 1.47(a)
Filed: 6 August, 2004	:	
Atty Docket No. OPTIS.109A	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 22 February, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 6 August, 2004, without an executed oath or declaration. Accordingly, on 18 October, 2004, a Notice to File Missing Parts of Nonprovisional Application was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 22 February, 2005 (certificate of mailing 18 February, 2005), petitioners filed a two (2) month extension of time, the present petition, the late-filing surcharge, and a declaration naming James R. Braig, Peter Rule, Philip C. Hartstein, and Heidi S. Smith as joint inventors and signed by

all inventors except Smith on behalf of themselves and non-signing joint inventor Smith.

Petitioners assert that joint inventor Smith has failed to sign the declaration. In support, petitioners have provided a statement of facts by joint inventor Braig, stating that he sent a copy of the declaration to non-signing joint inventor Smith, but that she did not execute and return it.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not shown that joint inventor Smith was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Based on the showing of record, it does not appear that the specification, including claims, and the drawings, were among the application papers sent to the non-signing inventor.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in

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[1] MPEP 409.03(d).

writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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NOV 0 2 2007

OFFICE OF PETITIONS

In re Application of :
William J. Park et al :
Application No. 10/800,950 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 2003P19072US :

This is a decision on the petition filed July 19, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed March 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 3, 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 Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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OIW 10-04

HOVEY WILLIAMS LLP
SUITE 400
2405 GRAND BOULEVARD
KANSAS CITY MO 64108

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Alveby et al. :
Application No. 10/800,968 : DECISION ON PETITION
Filed: 15 March, 2004 :
Attorney Docket No. 32224-CIP1 :

This is a decision on the petition filed on 9 July, 2004, styled under 37 CFR 1.181, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including three (3) sheets of drawings, be accorded a filing date of 15 March, 2004.

The petition is granted.

On 15 March, 2004, the application was filed.

On 1 June, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings. The Notice also stated that the oath or declaration was unsigned.

In response, on 9 July, 2004, the present petition and a copy of three (3) sheet of drawings, was filed. Petitioners argue that three (3) drawing sheets was filed with the other application papers on 15 March, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 15 March, 2004, with the above-identified application number, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges

receipt of, *inter alia*, three (3) drawing sheets. Petitioners request that the application, including the three (3) sheets of drawings, be accorded a filing date of 15 March, 2004.

A review of the record reveals that no sheets of drawings received on 15 March, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 15 March, 2004, included three (3) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including three (3) sheets of drawings, is entitled to a filing date of 15 March, 2004.

In view of the above, the petition is granted. As the present petition was necessitated by Office error, the petition fee will credited to counsel's deposit account, No. 19-0522.

Receipt is also acknowledged of the signed declaration filed on 9 July, 2004, with the present petition.

The application will be processed with the copy of the three (3) sheets of drawings supplied on 9 July, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 March, 2004, using the application papers filed on that date, and the copy of three (3) sheets of drawings supplied with the present petition, and for an indication in Office records that three (3) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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NOV - 8 2004

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NOV - 8 2004

OFFICE OF THE DIRECTOR
TC 3600

THOMAS B. LUEBBERING
HOVEY WILLIAMS LLP
2405 Grand
Suite 400
Kansas City, MO 64108

In re application of
Herbert Modglin
Application No. 10/800,969
Filed: March 15, 2004
For: AUTOMATIC JIGGING DEVICE FOR A FISHING ROD

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 15, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Modglin indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **Granted.**

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 11/01/04

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: James T. Bezanson	: DECISION ON REQUEST FOR
Patent Number	: 7660847	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/800,975	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1701** 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

DAVID McCUTCHEN
2444 SE TIBBETTS ST.
PORTLAND, OR 97202

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SEP 2 9 2006

OFFICE OF PETITIONS

In re Application of McCuthen :
Application No. 10/800,978 : Decision on Petition
Filing Date: March 15, 2004 :
For: Rotating Scan Self-Cleaning Camera :

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2006, 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 9, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on May 10, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and will take steps to issue the application as a patent 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

Christopher Rudd
IMMUNE VENTURES CORP
39E Bellis Circle
Cambridge, MA 02140

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of
RUDD, Christopher
Application No.: 10/800,985
Filing Date: March 14, 2004
Docket No.:
For: USE OF INHIBITORS OF GLYCOGEN SYNTHASE-3 TO AUGMENT CD28 DEPENDENT -T-CELL RESPONSES

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the petition to revive under 37 CFR 1.137(b) filed on May 23, 2005.

The petition under 1.137(b) is hereby **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply to the Notice to File Corrected Application Papers ("Notice") mailed June 1, 2004. The Notice required replacement drawings and additional fees. The Notice set a two (2) month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). Applicant's response on November 2, 2004 was incomplete as not all additional claim fees were paid. No other response was provided. Thus, the above-captioned application became abandoned.

Here, petitioner included the additional claim fee of $100.00, the $750.00 petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. Accordingly, the petition is granted under 37 CFR1.137(b).

This application is being forwarded to the Office of Initial Patent Examination for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VAN DYKE GARDNER LINN AND BURKHART LLP
2851 CHARLEVOIX DR SE
PO BOX 888695
GRAND RAPIDS MI 49588-8695

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of :
David G. Hees :
Application No. 10/801,025 : DECISION GRANTING PETITION
Filed: March 15, 2004 :
Attorney Docket No. KEN02 P-101 :

This is a decision on the "PETITION TO THE NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION", filed November 22, 2004, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of March 15, 2004, with pages 1 and 2 of the specification as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on March 15, 2004. However, on September 20, 2004, the Initial Patent Examination Division mailed applicants a "Notice of notified the application papers had been accorded a filing date of March 15, 2004; however, page 1 and 2 of the specification appeared to have been omitted.

In response, the present petition was filed on November 22, 2004, made timely by including a Certificate of Mailing dated November 18, 2004. Petitioners have submitted a postcard receipt, itemizing "9 pages of specification" as enclosed, and bearing a USPTO date stamp of March 15, 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.[1]

In view of the above, the petition is **GRANTED**.

Given the basis for granting this petition, the petition fee has been refunded to Deposit Account No. 22-0190.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed March 15, 2004, and pages 1 and 2 of the specification as resupplied on petition filed November 22, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] MPEP 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,041	03/16/2004	Jin Hong Kim	46500-000143/US	1235

30593 7590 08/15/2006

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
RAEVIS, ROBERT R	

ART UNIT	PAPER NUMBER
2856	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 29195

AUG 15 2006

In re Application of: Jin Hong KIM et al :
: NOTICE OF WITHDRAWAL
Application No. 10/801,041 : FROM ISSUE
Filed: March 16, 2004 : UNDER 37 CFR 1.313
Attorney Docket No. 46500-000143/US :

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed May 11, 2006, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Hezron Williams at (571) 272-2208.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/15/10

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 10801072 Patent No.: 7109408

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Nam Nguyen
SPE

1795
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 12 2007

OFFICE OF PETITIONS

PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

In re Application of
Francis X. Bostick III
Application No. 10/801,076
Filed: March 15, 2004
Attorney Docket No. **WEAT/0474**

ON PETITION

This is a decision on the petition filed July 20, 2006 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition under 37 CFR 1.137 (b) is **GRANTED**.

This application became abandoned May 2, 2007 for failure to timely pay the issue fee on or before February 1, 2007. Accordingly, a Notice of Abandonment was mailed June 23, 2007.

The issue fee, publication fee and petition fee have all been applied. All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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IVAN DAVID ZITKOVSKY PH.D PC
5 MILITIA DRIVE
LEXINGTON MA 02421

COPY MAILED
MAR 10 2010

In re Patent No. 6,967,559 :
Issue Date: 22 November, 2005 :
Application No. 10/801,079 : DECISION
Filed: 16 March, 2004 :
Attorney Docket No. E1-01US2

This is a decision on the petition filed on 2 June, 2009, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

Petitioner is reminded that the regulations require that Petitioner set forth both the application number and the patent number when submitting materials for a patented matter.

Moreover, it is noted that while Petitioner authorized additional fees:

- Petitioner expressly requested removal of small entity status yet stated only small entity fees at baseline;
- Moreover, Petitioner submitted the fees after the 3½ year anniversary, but neglected to itemize the surcharge

Petitioner has the responsibility of reviewing Petitioner's records and submitting accurate information to the Office.

Petitioner's submission is **accepted**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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 action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 20 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SWERNOFSKY LAW GROUP PC
P.O. BOX 390013
MOUNTAIN VIEW CA 94039-0013

In re Application of:
Michael A. Malcolm , et al.
Serial No.: 10/801,091
Filed: March 15, 2004
Attorney Docket Number: **217.1026.01**
Title: **REMOTE PLAYBACK OF INGESTED MEDIA CONTENT**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on September 4, 2007 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; and because the petition was not filed together with the application on or after August 25, 2006. Futhermore the application was not complete at the time of filing (a Notice to File Missing Parts of NonProvisional Application was mailed on June 1, 2004) and the application was filed with more than 20 total claims.

For the above-stated reasons, the petition is denied. Therefore, the file will be taken up by the examiner in its regular turn.

Any inquiry regarding this decision should be directed to Krista Zele, Quality Assurance Specialist, at (571) 272-7288.

/Krista Zele/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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DEC 06 2004

OFFICE OF PETITIONS

In re Application of :
Robert Jizwiak et al. :
Application No. 10/801,104 : DECISION ACCORDING STATUS
Filed: March 15, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TRM TR010037CON :

This is in response to the petition filed November 19, 2004, improperly under 37 CFR 1.53(b), but properly treated under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on March 15, 2004, naming Robert Juzwiak and Aaron Berendt as joint inventors but without a signed declaration. Accordingly, on June 1, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, on November 19, 2004, the instant petition under 37 CFR 1.47(a), an oath or declaration executed only by joint inventor Berendt, late filing surcharge, filing fees and a request for a four month extension of time were filed. The petition argues that joint inventor Juzwiak refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to Mr. Juzwiak and that he has not returned an executed oath or declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

A credit card payment in the amount of $2504.00 covered the filing fees, late filing surcharge and the extension of time fee but did not cover the petition fee. However, pursuant to the authorization in the petition, the petition fee in the amount of $130.00 will be charged to Deposit Account No. 50-2121.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being returned 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT JUZWIAK
9410 CORRINE STREET
PLYMOUTH, MI 48170

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DEC 0 6 2004

OFFICE OF PETITIONS

In re Application of
Robert Juzwiak et al.
Application No. 10/801,104
Filed: March 15, 2004
For: TAILGATE MODULE

Dear Mr. Juzwaik:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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PATENT MANAGEMENT GROUP
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SUITE 500
ARLINGTON VA 22201-2909

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FEB 20 2008

In re Application of :
Schmidt, et al. :
Application No. 10/801,106 : DECISION
Filed: 15 March, 2004 :
Attorney Docket No. 99-818C1 :

This is a decision on the petition filed on 13 April, 2007, and resubmitted on 21 May, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

It appears that the Power of Attorney filed on 13 April, 2007, has been entered.

The Office regrets the delay in addressing the instant matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 10 January, 2007, with reply due under a non-extendable deadline on or before 10 April, 2007;

- the application went abandoned by operation of law after midnight 10 April, 2007;

- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;

- on 13 April, 2007, Petitioner submitted the instant petition with fee, the reply in the form of fees due, and made the statement of unintentional delay.

- the Office mailed the Notice of Abandonment on 20 April, 2007;

- Petitioner resubmitted the instant petition with fee, a reply in the form of Fees Due (previously authorized and charged) and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[3]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[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).

And the Petitioner must be diligent in attending to the matter.[4] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[5]))

As to Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a proper reply, a statement/showing of unintentional delay, and—where appropriate—a terminal disclaimer and fee.

Petitioner appears to have satisfied the requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

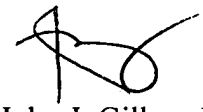
Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/Publications Branch in response to this decision—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/Art Unit/Publications Branch where that change of status must be effected.

---

[4] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[5] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[6] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Georg Eggers :
Application No. 10/801,130 : DECISION ON PETITION
Filed: March 16, 2004 : TO WITHDRAW
Attorney Docket No. 543822005100 : 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 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: SLATER & MATSIL, LLP
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

In re Application of	:
Ruey Yu et al	:
Serial No.: 10/801,134	: PETITION TO MAKE SPECIAL
Filed: March 16, 2004	:
Attorney Docket No.: 59210.000048	:

This is in response to the petition filed July 6, 2006, 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, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. None

KNOBBE MARTENS OLSON & BEAR LLP
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FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Ramon A. Caamano :
Application No. 10/801,163 :
Filing Date: March 8, 2004 : DECISION ON PETITION
Attorney Docket Number: : UNDER 37 C.F.R. §1.10(C)
GRTSTF.036A :
Title of Invention: GENERATOR :
FOR POWERING A REEL FROM A :
FLUID FLOW :

BACKGROUND

This is a decision on the petition filed November 12, 2004, under 37 C.F.R. §1.181, which is properly treated as a petition under 37 C.F.R. §1.10(c), requesting that the above-identified application be accorded a filing date of March 5, 2004.

The Office regrets the delay in issuing this decision.

Shortly after the above-identified application was received in the Office, the Office of Initial Patent Examination mailed Petitioner's filing receipt, indicating that the application had been accorded a filing date of March 8, 2004.

Petitioner has alleged that the application was deposited on March 5, 2004, and the Patent Office has incorrectly assigned a filing date of March 8, 2004 to the instant application. Petitioner has set forth that this application was sent to the Office via the "Express Mail Post Office to Addressee" service of

the United States Postal Service (USPS), and that Express Mail label EV319028732US[1] was associated with this mailing. It is further noted that Petitioner has not included a copy of the Express mail label with his petition - Petitioner has set forth that he is not in possession of the processed receipt[2].

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (<http://www.usps.com/shipping/trackandconfirm.htm>) was also inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line.

However, Petitioner has enclosed a print-out from this same website, presumably from prior to the information being taken off-line. This print-out shows an entry of "Acceptance, March 05, 2004, 4:46 pm, San Francisco, CA 94111." Thus, it is clear that the USPS was in possession of this package on this date.

THE RELEVANT PORTION OF THE MPEP

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail" sets forth, in part:

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

[48 FR 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 FR 4285, Jan. 31, 1983, paras. (a) & (c), 49 FR 552, Jan. 4, 1984, effective Apr. 1, 1984;

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1 It is noted that this same Express Mail number appears on the Utility Application Transmittal Sheet, which has been located in the electronic file.
2 Petition, page 2.

paras. (a)-(c) revised and paras. (d) - (f) added, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 67 FR 36099, May 23, 2002, effective June 24, 2002; paras. (c), (d), (d)(3), (e) & (e)(4) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(1) revised, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003]

ANALYSIS

37 C.F.R. §1.10(c)(3) requires that any petition under this section of the C.F.R. include a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit. Since it does not appear that a copy of the express mail label has been included, this petition cannot be granted.

If a true copy of the Express Mail label cannot be obtained, Petitioner may wish to consider filing a petition under 37 C.F.R. §1.183 to request that the Office waive 37 C.F.R. §1.10(c)(3).

CONCLUSION

Therefore, this petition is **DISMISSED**.

The filing date will remain March 8, 2004.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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COMMISSIONER FOR PATENTS
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2040 MAIN STREET
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OFFICE OF PETITIONS

In re Application of :
Ramon A. Caamano :
Application No. 10/801,163 :
Filing Date: March 5, 2004 : DECISION ON RENEWED PETITION
Attorney Docket Number: : UNDER 37 C.F.R. §1.10(C)
GRTSTF.036A :
Title of Invention: GENERATOR :
FOR POWERING A REEL FROM A :
FLUID FLOW :

BACKGROUND

This is a decision on the renewed petition filed December 7, 2005, which is properly treated as a petition under 37 C.F.R. §1.10(c), requesting that the above-identified application be accorded a filing date of March 5, 2004.

Shortly after the above-identified application was received in the Office, the Office of Initial Patent Examination mailed Petitioner's filing receipt, indicating that the application had been accorded a filing date of March 8, 2004.

Petitioner has alleged that the application was deposited on March 5, 2004, and the Patent Office has incorrectly assigned a filing date of March 8, 2004 to the instant application. Petitioner has set forth that this application was sent to the Office via the "Express Mail Post Office to Addressee" service of

the United States Postal Service (USPS), and that Express Mail label EV319028732US[1] was associated with this mailing. Petitioner is not in possession of a copy of the Express mail label - Petitioner has set forth that he is not in possession of the processed receipt[2].

It is unfortunate that applicants chose to deposit a paper as important as a patent application in Express Mail without immediately obtaining an Express Mail receipt showing the desired date of deposit.

The original petition was received on November 12, 2004 and was dismissed via the mailing of a decision on October 5, 2005.

THE RELEVANT PORTION OF THE MPEP

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail" sets forth, in part:

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

[48 FR 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 FR 4285, Jan. 31, 1983, paras. (a) & (c), 49 FR 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 67 FR 36099, May 23, 2002, effective June 24, 2002; paras. (c), (d), (d)(3), (e) & (e)(4) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(1) revised, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003]

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1 It is noted that this same Express Mail number appears on the Utility Application Transmittal Sheet, which has been located in the electronic file.
2 Original Petition, page 2.

ANALYSIS

37 C.F.R. §1.10(c)(3) requires that any petition under this section of the C.F.R. include a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit. Since it does not appear that a copy of the express mail label has been included, this petition cannot be granted.

With the original petition, Petitioner enclosed a print-out from the USPS website, showing an entry of "Acceptance, March 05, 2004, 4:46 pm, San Francisco, CA 94111." Since Petitioner has provided an official notation from the USPS, it is considered appropriate to waive the requirement of 37 C.F.R. §1.10(c)(3) and accord the application the requested filing date in the absence of a true copy of the Express Mail label.

CONCLUSION

Therefore, this petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 5, 2004, as well as the mailing of a corrected filing receipt.

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

Michael Spiegel
199 Palm Avenue
Miami FL 33139

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Michael SPIEGAL	:	
Application No. 10/801,168	:	DECISION ON PETITION
Filed: March 12, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. LDP-8080 CIP	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on January 20, 2006, to make the above-identified application special based on applicants who are small entities filing biotechnology applications as set forth in M.P.E.P. § 708.02, Section XII.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Special Status for Applications Relating to Biotechnology Filed by Applicants Who are Small Entities, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) state:

> (A) That small entity status has been established or include a statement establishing small entity status;
>
> (B) That the subject of the patent application is a major asset of the small entity; and
>
> (C) That the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

To be granted special status, the application must be related to the field of Biotechnology.

The instant petition fails to meet the requirements set forth above for special status because it is not a biotechnical invention. Biotechnology is the industrial use of recombinant DNA, cell diffusion and novel bioprocessing techniques.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3731 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

U.S. Army Communications-Electronics Command
ATTN: AMSEL-LG-L (George B. Tereschuk, Esq.)
Fort Monmouth NJ 07703-5010

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JUL 3 1 2008

In re Application of	:	
Tauber et al.	:	
Application No. 10/801169	:	DECISION
Filing or 371(c) Date: 03/12/2004	:	ON PETITION
Patent No.: 7306855	:	
Issue Date: 12/11/2007	:	
Attorney Docket Number:	:	
CECOM 5520	:	

This is a decision on the "Request for Reconsideration of Petition Under 37 CFR 3.81(b)," filed January 28, 2008, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The Petition is **dismissed**.

A review of the assignment recorded at reel 015080; Frame 0252 reveals that the assignment, recorded in application 09/845,108, is of application serial number 08/333,669, filed November 3, 1994. The present application is a division ("DIV") of application 09/845,108, which is a continuation-in-part ("CIP") of 09/337,724, which is a CIP of 08/717,822, which is a CIP of 08/333,669.

The MPEP 306, Assignment of Division, Continuation, Substitute, and Continuation-in-Part in Relation to Parent Application, states in relevant part:

> In the case of a substitute or continuation-in-part application, **a prior assignment of the original application** is not applied (effective) to the substitute or continuation-in-part application because the assignment recorded against the original application gives the assignee rights to only the subject matter common to both applications. Substitute or continuation-in-part applications require the recordation of a **new assignment** if they are to be issued to an assignee. See 37 CFR 3.81.

A review of the present petition reveals that the assignment relied upon to establish the assignee of record in the present application is not effective because the present application is a DIV of application 09/845,108; however, the assignment recorded in 09/845,108 is not effective because 09/845,108 is a CIP of a CIP of a CIP of the application assigned in the recorded assignment at reel 015080; Frame 0252. A new assignment must have been recorded.

37 CFR 3.81, Issue of patent to assignee, states:

> (b) 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.

In this instance, Petitioner has failed to demonstrate that a new assignment was submitted for recordation in the present application before issuance of the patent[1].

Petitioner is also advised that a review of the assignment recorded at reel 015080; Frame 0252 reveals that while the assignment lists as the assignors, inventors Author Tauber, Robert Finnegan, William Wilbur, Steven Tidrow, Donald Eckart and William Drach, it is executed by inventors Finnegan, Wilbur and Tidrow only.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

[1] A new assignment recorded in the parent application would have been sufficient because this application is a DIV of the parent application.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Patent No. : 7,306,855
Ser. No. : 10/801,169
Inventor(s) : Tauber et al.
Issued : Dec. 11,2007
Title : RARE EARTH METAL COMPOUND S FOR USE IN HIGH CRITICAL TEMPERATURE THIN FILM STRUCTURES FOR SUPER-CONDUCTORS,FERROELECTRICS,PYROELECTRICS,PIEZOELECTRICS AND HYBRIDS

Docket No. : CECOM 5520['

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 117 or (703) 308-8309

United States
Patent And
Trademark Office

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

05/04/04

Alexander J. Smolenski, Jr.
Bromberg & Sunstein LLP
125 Boston Street
Boston, MA 02110-1618

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/801180 received on 04/15/04 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
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FREDERIC M. DOUGLAS
15333 CULVER DRIVE
SUITE 340 PMB 114
IRVINE CA 92604-3051

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JUL 31 2009

OFFICE OF PETITIONS

Patent No. 7,004,350 :
Issue Date: February 28, 2006 :
Application No. 10/801,194 : DECISION ON PETITION
Filed: March 15, 2004 :

This is a decision on the petition under 37 CFR 1.59(b), filed July 9, 2009, to expunge information from the above identified application.

The petition is dismissed as moot.

Petitioner requests that third party submissions in the file for the above noted patent be expunged from the record.

Communications were filed April 23, 2009, February 24, 2009, January 31, 2008 and October 27, 2006, which was supplemented on January 31, 2008, respectively petitioning the Director to expunge a Certificate of Correction for U.S. Patent No. 7,004,350, add Harris Cohen as an inventor in U.S. Patent No. 7,004,350, expunge assignment records in U.S. Patent No. 7,004,350, and deny a petition to correct inventorship filed on September 26, 2006 by Amity Rubberized Pen Company. These communications were improperly submitted by a third party to the above noted application. The USPTO will not act as these communications request. The third party communications filed April 23, 2009, February 24, 2009, January 31, 2008 and October 27, 2006 have been closed in the Office's Image File Wrapper (IFW) records for the above identified application and, thereby, removed from the listing of publicly available documents for this Image File Wrapper (IFW).

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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ELMAN TECHNOLOGY LAW, P.C.
P. O. BOX 209
SWARTHMORE, PA 19081

Mail Date: 04/21/2010

Applicant	: Daniil Fishteyn	: DECISION ON REQUEST FOR
Patent Number	: 7649838	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/801,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **790** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ELMAN TECHNOLOGY LAW, P.C.
P. O. BOX 209
SWARTHMORE, PA 19081

Mail Date: 05/18/2010

Applicant : Daniil Fishteyn
Patent Number : 7649838
Issue Date : 01/19/2010
Application No: 10/801,199
Filed : 03/16/2004

: 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 **888** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of :
Lee et al. : DECISION ON PETITION
Application No. 10/801,208 :
Filed: March 16, 2004 :
Atty Docket No. 5649-1277 :

This is a decision on the "PETITION TO ACCORD THE PROPER FILING DATE," filed June 30, 2004, requesting that the above-identified application be accorded a filing date of March 16, 2004, rather than the presently accorded filing date of March 17, 2004. The petition was recently forwarded to the undersigned for consideration.

Petitioner maintains, in essence, that the above-identified application was deposited in compliance with 37 CFR §1.10 on March 16, 2004, and thus, is entitled to a filing date of March 16, 2004. Petitioner indicates that the discrepancy between the date of deposit and the filing date accorded was discovered upon receipt of the filing receipt, which showed a filing date of March 17, 2004. However, petitioner also acknowledged receipt of a return postcard, showing a date-stamp of receipt of March 16, 2004 for the original application papers. The petition was filed promptly after receipt of the filing receipt. In support thereof, petitioner submits a true and accurate copy of the Cover Sheet for the Application showing the Express Mail mailing label No. EV381444019US; a copy of their return postcard receipt; and a true and accurate copy of the Express Mail mailing label used, along with a copy of the USPS Track and Confirm Record from the USPS web page, showing "acceptance" with the USPS at 5:53 pm on March 16, 2004.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of §1.10(c)(1). The transmittal sheet as submitted on petition with the Express Mail number thereon is a true copy of the transmittal of record and identifies the correspondence currently accorded a filing date of March 16, 2004. Thus, petitioner has shown that Express Mail No. EV381444019US was placed on the correspondence prior to the original mailing date. A review of the true copy of the Express Mail mailing label further reveals that the "date-in" entered by the USPS is March 16, 2004. In addition, the Express Mail mailing label bears an official USPS date-stamp of March 16, 2004. Moreover, a review of the USPS Track and Confirm Record and the return postcard further corroborate that the application was deposited on March 16, 2004.

In view thereof, the petition is **GRANTED**.

No petition fee is necessary.

It is noted that prior to a decision being rendered on this petition, the filing date of this application was corrected to March 16, 2004. Accordingly, no further action is required.

The application is being examined in Technology Center AU 2822.

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
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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of Avery :
Application No. 10/801,210 : Decision on Petition
Filing Date: March 16, 2004 :
Attorney Docket No. 1025-005 :

This is a decision on the petition under 37 CFR 1.181, filed January 13, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed May 26, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application was considered abandoned on June 27, 2005. A Notice of Abandonment was mailed December 27, 2005.

Petitioner contends the Office action was never received. Petitioner has established a showing sufficient to demonstrate non-receipt of the Office action.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3632 will be informed of the instant decision and the examiner will review the January 13, 2006 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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/801,221	03/15/2004	2681	770	010503C1	5	6	3

CONFIRMATION NO. 3121

CORRECTED FILING RECEIPT

OC000000013465889

23696
Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

Date Mailed: 08/06/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Tao Chen, San Diego, CA;
Jun Wang, San Diego, CA;
Ragulan Sinnarajah, San Diego, CA;
Brian K. Butler, La Jolla, CA;
Edward G. Tiedemann JR., Concord, MA;

Domestic Priority data as claimed by applicant

This application is a CON of 09/933,607 08/20/2001 PAT 6,731,936

Foreign Applications

If Required, Foreign Filing License Granted: 06/04/2004

Projected Publication Date: 09/16/2004

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for a handoff in a broadcast communication system

Preliminary Class

455

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of :
Chen, et al. : DECISION ON PETITION
Application No. 10/801,221 :
Filed: March 15, 2004 :
Atty. Dkt. No.: 010503C1 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 2, 2006.

The petition under 37 CFR 1.181 is hereby **GRANTED**.

This application was held abandoned October 19, 2005 for failure to timely file a proper response to the non-final Office action mailed July 18, 2005. The non-final Office action set a three month shortened statutory period for reply. Notice of Abandonment was mailed March 9, 2006.

Petitioners argue that a response to the non-final Office action was timely submitted October 18, 2005 in accordance with the Certificate of Transmission procedures outlined at 37 CFR 1.8. Petitioners have included a copy of the response to the non-final Office action bearing a certificate of facsimile dated October 18, 2005 in accordance with 37 CFR 1.8.

The response submitted October 18, 2005 has been located in the official application file.

In view thereof, the Notice of Abandonment is hereby VACATED and the Notice of Abandonment is WITHDRAWN.

This application is being forwarded to Technology Center 2600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 10/801,221 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 010503C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 6, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 6, 2006. Accordingly, the date of abandonment of this application is March 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400.00 and publication fee of $300.00, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

In regard to the statement of unintentional delay, 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Also, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJR.: 11-04

Paper No: __

HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS MI 48304-5151

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NOV 0 5 2004

OFFICE OF PETITIONS

In re Application of
Von Arx, et al. :
Application No. 10/801,236 : DECISION ON PETITION
Filing Date: 16 March, 2004
Attorney Docket No. 65,253-007 :

This is a decision on the petition filed on 23 July, 2004, and considered under 37 C.F.R. §1.53, to obtain a filing date of 16 <March, 2004, for Fig. 2 as described in the specification.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.

BACKGROUND

This nonprovisional application was deposited on 16 March, 2004.

On 1 June, 2004, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the 1 June Notice) and indicated that, while a filing date had been granted, it appeared that Fig. 2 as described in the specification was omitted from the application.

The 1 June 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 ignore the 1 June Notice and accept the application as filed.

Petitioner actually elected to do none of the above, in that while he has submitted the petition and fee he has submitted no evidence of deposit of the Fig. 2 on filing–though he apparently has

submitted drawings–including one identified a Fig. 2.

Petitioner:

- filed the instant petition on 23 July, 2004; and
- alleged that the instant application incorporated by reference the parent such that the presence of the drawing in the parent with the incorporation by reference results in there being no new matter if Fig. 2 as described in the specification is included in the instant application.

Analysis

A search of the official file reveals that on 16 March, 2004, Petitioner deposited the instant application, and stated therein on the first page of the specification that this was a "Divisional . . . of prior application n.: 10/055,683" filed on 23 January, 2002, and that "[t]he entire disclosure of the prior application . . . is considered as being part of the accompanying application and is hereby incorporated by reference."

CONCLUSION

The petition is **dismissed**.

Because Petitioner asserts that the first paragraph of the specification states that the application is a continuation of Application Serial No. 10/055,683, filed on 23 January, 2002, and pending as of the filing of the instant application, and that application was incorporated by reference. This incorporation may be proper in practice before the Office. (See: MPEP §201.06(c) (in pertinent part).)[1] As a matter of expediting prosecution, Petitioner may submit a copy of the parent application (Application Serial No. 10/055,683) with a preliminary amendment and seek entry of

---

[1] The commentary at MPEP §201.06(c) provides in pertinent part:

* * *

INCORPORATION BY REFERENCE

* * *

In a continuation or divisional application, the safe-guard (petition and fee under former 37 C.F.R. 1.60(b)) concerning the filing of an application lacking all of the pages of the specification or sheets of drawings of the prior application has not been retained in 37 C.F.R. 1.53(b) since the specification and drawings of a continuation or divisional application are not limited to a reproduction or a "true copy" of the prior application. As a safeguard, however, an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (Emphasis supplied.).

that amendment by the Examiner.)

No petition is required for that purpose.

This file (Image File Wrapper (IFW) is released to OIPE for further processing consistent with this decision before being forwarded for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Dergosits & Noah LLP
Suite 1450
Four Embarcadero Center
San Francisco CA 94111

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SEP 26 2006

OFFICE OF PETITIONS

In re Application of :
Aaron M. Lamstein :
Application No. 10/801,240 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 545.41 :

This is decision on the petition filed on February 27, 2006, to withdraw the holding of abandonment, or in the alternative, a petition to revive the above-identified application pursuant to 37 CFR 1.137(b).

On April 18, 2005, petitioner filed a notice of appeal, which set a two-month extendable period to submit an appeal brief. In the apparent absence of a timely filed appeal brief, the application became abandoned on June 19, 2005. On December 20, 2005, the Office mailed a Notice of Abandonment.

In the present petition, petitioner asserted that he timely filed an appeal brief on April 15, 2005. In support of the petition, petitioner submitted the Declarations of Teri Nelmark and Michael E. Dergosits, a copy of petitioner's postcard receipt, and a copy of an appeal brief, bearing a certificate of mailing of April 15, 2005.

Initially, the Office notes that the postcard receipt does not bear a USPTO date-stamp. Therefore, the postcard receipt cannot serve as prima facie evidence of receipt of the appeal brief in the USPTO on April 15, 2005. *See MPEP 503.* The Office further notes that the certificate of mailing on the appeal brief indicates the following: "I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Box TTAB**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 4/15/05. By: Teri Nelmark." (emphasis added).

The USPTO file is the official record of the papers filed in this application. After reviewing the official file, the Office has not located the appeal brief submitted on April 15, 2005, among the application papers. A petitioner alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

Pursuant to 37 CFR 1.8(a), the USPTO will consider correspondence, which is required to be filed in the Office within a set time period, as timely filed if the applicant complies with the procedures described in the following section. The actual date of receipt will be used for all other purposes.

> (1) Correspondence will be considered as being timely filed if:
>
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
>
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
>
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
>
> (ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

As previously stated, petitioner certified that the appeal brief was addressed to Box TTAB, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. However, the correct mailing address for all appeal briefs or other briefs under part 41 of title 37 of the Code of Federal Regulations (e.g., former 37 CFR 1.192) is:

> **Mail Stop Appeal Brief-Patents**
> Commissioner for Patents
> P.O. Box 1450
> Alexandria, VA 22313-1450

See Special Mail Stops for Patent Mail, 1293 Off. Gaz. Pat. Office 28 (Apr. 5, 2005) (emphasis added).

In the present case, petitioner failed to comply with the procedures of 37 CFR 1.8 because petitioner did not mail the appeal brief to the correct USPTO mailing address on April 15, 2005, and therefore, cannot avail himself of the benefits bestowed by 37 CFR 1.8. Accordingly, the certificate of mailing indicated on the copy of the appeal brief will not be considered proof of prior filing or mailing under 37 CFR 1.8(b) because the correspondence was not mailed in accordance with 37 CFR 1.1. Moreover, the Declarations of Ms. Nelmark and Mr. Dergosits are no more persuasive of what was actually mailed than the contents of the official record.

As petitioner failed to submit sufficient documentary evidence to demonstrate that he timely filed an appeal brief in the USPTO, the petition to withdraw the holding of abandonment is **dismissed**.

As to the petition under 37 CFR 1.137(b), a grantable petition must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee ($750.00 for a small entity), and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. **The Director may require additional information where there is a question whether the delay was unintentional.**

Petitioner did not make a statement of unintentional delay pursuant to 37 CFR 1.137(b)(3) nor does the word "unintentional" appear anywhere in the petition. Petitioner is reminded to include the statement "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," even though petitioner included a statement of the facts concerning the delay. *See MPEP 711.03(c)(II)(C)(1).*

As petitioner has not satisfied all of the requirements under 37 CFR 1.137(b), the petition to revive is **dismissed**.

If petitioner desires, petitioner may submit a request for reconsideration of this decision within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are permitted under 37 CFR 1.136(a). The request for reconsideration should include the omitted item(s) above and a cover letter entitled, Renewed Petition under 37 CFR 1.181 and/or 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 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

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Suite 1450
Four Embarcadero Center
San Francisco CA 94111

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DEC 28 2006

OFFICE OF PETITIONS

In re Application of
Aaron M. Lamstein
Application No. 10/801,240
Filed: March 15, 2004
Attorney Docket No. 545.41

DECISION ON PETITION

This is decision on the renewed petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

On April 18, 2005, petitioner filed a notice of appeal, which set a two-month extendable period to submit an appeal brief. In the apparent absence of a timely filed appeal brief, the application became abandoned on June 19, 2005. On December 20, 2005, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the requisite fees, and made the proper statement of unintentional delay.

Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 3643.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: David Maxwell Cannon	: DECISION ON REQUEST FOR
Patent Number	: 7631076	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/801,255	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1665** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
1600 TCF TOWER
121 SOUTH EIGHT STREET
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of :
Randall S. Nelson, et al. :
Application No. 10/801,299 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 1276.006US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 21, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 22, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $510 extension of time submitted on September 30, 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.

The petition satisfies the requirement of 37 CFR 1.137 (b) in that petitioner has supplied (1) the reply in the form of an Amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the petition filed September 30, 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 3700, Art Unit 3754 for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 4

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE, TN 37901

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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Cannon, et al. :
Filed: March 16, 2004 : ON PETITION
Application No. 10/801,319 :
Atty. Dkt. No.: LE-2002-0314.02 :

This decision in response to the "RESPONSE TO NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION FILED UNDER 37 CFR 1.53(b)," filed July 27, 2004, in response to the "Notice of Omitted Items in a Nonprovisional Application ("Notice") mailed June 1, 2004.

The application was filed March 16, 2004. The Notice indicated that the application had been accorded a filing date but that figures 21-30 appeared to have been omitted from the specification.

The Notice permits 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 (37 CFR 1.181(f)).

In response to the Notice, petitioners submitted the omitted items and indicated that the items are part of the disclosure of U.S. App. No. 10/327,761.

Petitioners request, in effect, that figures 21-30 be entered into the record and that the application be accorded a filing date of March 16, 2004.

It is noted that the application transmittal letter for the instant application contains an incorporation statement. An incorporation by reference statement may be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. *See*, MPEP 201.06(c).

Based on petitioner's representation that Figures 21-30 are part of the disclosure of application No. 10/327,761 and the entire disclosure of application No. 10/327,761 was specifically incorporated by reference in the present application on March 16, 2004, it appears that Figures 21-30 were present in the Office on March 16, 2004, albeit in the file of another application, i.e., application No. 10/327,761. Therefore, on petition, the application may be accorded the requested filing date.

Petitioner is advised to promptly submit a second preliminary amendment requesting entry of the omitted figures prior to the issuance of the first Office action on the merits.

A newly executed oath or declaration is not required under 37 CFR 1.51(b)(2) and 1.53(f) in a continuation or divisional application, provided that the specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application. See 37 CFR 1.63(d)(1). For initial processing purposes, it is presumed that Figures 21-30 submitted with the instant petition, contains no matter that would have been new matter in the prior application. Thus, the application will be processed using the copy of the declaration deposited on March 16, 2004.

The required petition fee of $130.00 will not be refunded since the petition was necessary to correct petitioner's filing error.

In view of the above, the petition is **DISMISSED**.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 16, 2004 using 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
Senior Petitions Attorney
Office of Petitions

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MICHAEL J. MALLIE
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Martin Boliek et al :
Application No. 09/801,360 : DECISION GRANTING PETITION
Filed: March 6, 2001 : UNDER 37 CFR 1.182
Attorney Docket No. 74451.P127D4 :

This is a decision on the petition under 37 CFR 1.182, filed February 14, 2005, to change the order of the named inventors.[1]

The petition is **granted**.

A corrected Filing Receipt which reflects the desired order of inventorship accompanies this decision on petition.

Petitioner has submitted a fee of $130. However, effective November 22, 2004, the fee for the filing of a petition under 37 CFR 1.182 was increased to $400. Accordingly, as authorized, the balance due of $270 will be charged to petitioner's deposit account.

If the printing of this application into a patent has progressed to the point where the desired order of inventorship cannot be included on the front page of the Letters Patent, petitioner may request a certificate of correction (with $100 fee) pursuant to the provisions of 37 CFR 1.323.

Inquiries specific to this decision should be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of this application into a patent should be directed to the Publishing Customer Service (703) 308-6789.

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

[1] The petition did not include 4th inventor Wu; therefore, the order of inventorship as to inventor Wu has not changed.

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

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JUL 11 2007

OFFICE OF PETITIONS

In re Application of	:	
McCallum	:	
Application No. 10/801412	:	
Filing or 371(c) Date: 03/16/2004	:	ON PETITION
Patent No. 7040128	:	
Issue Date: 05/09/2006	:	
For:	:	
TRI-AXIS HARD DIE CHECK	:	

This is a notice regarding 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 matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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SQUIRE SANDERS & DEMPSEY L.L.P.
TWO RENAISSANCE SQUARE
40 NORTH CENTRAL AVENUE, SUITE 2700
PHOENIX, AZ 85004-4440

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OFFICE OF PETITIONS

In re Application of	:	
Paul C. Mioduski et al	:	
Application No. 10/801,416	:	DECISION ON PETITION
Filed: March 15, 2004	:	TO WITHDRAW
Attorney Docket No. 62815.00002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 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 Allen J. Moss on behalf of all attorneys of record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed September 30, 2005 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Gene R. Hedin, CB/CEO
Thermosurgery Technologies, Inc.
2901 West Indian School Road
Phoenix, AZ 85017

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/801,416	03/15/2004	Paul C. Mioduski	62815.00002

CONFIRMATION NO. 1961

OC000000018077019

OC000000018077019

SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

Date Mailed: 02/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2006.

- 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.

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/801,416	03/15/2004	Paul C. Mioduski	62815.00002

CONFIRMATION NO. 1961

OC000000018077019

OC000000018077019

SQUIRE, SANDERS & DEMPSEY L.L.P.
Two Renaissance Square
Suite 2700
40 North Central Avenue
Phoenix, AZ 85004-4498

Date Mailed: 02/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2006.

- 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.

IRVIN DINGLE
OP (571) 272-3210

NEW 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

LAW OFFICE OF DALE B. HALLING
24 S. WEBER ST., SUITE 311
COLORADO SPRINGS, CO 80903

COPY MAILED

AUG 2 6 2004

OFFICE OF PETITIONS

In re Application of	:	
Moscaluk et al.	:	
Application No. 10/801,432	:	ON PETITION
Filed: March 16, 2004	:	
Attorney Docket No. CYP-0404	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the undersigned at (703) 306-0482. Any telephone inquiries after approximately **September 24, 2004** should be directed to (571) 272-3206.

This matter is being referred the Office of Initial Patent Examination for further processing.

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

STEVEN J. ROSEN
4729 CORNELL RD.
CINCINNATI, OH 45241

COPY MAILED

FEB 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Myers et al.	:	
Application No. 10/801,439	:	ON PETITION
Filed: March 15, 2004	:	
Attorney Docket No. 123102	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of Corrected Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

SPE: J. McKane

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/16/07

Paper No.: _____

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/801,469 Patent No.: 7205318

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: The non-elected subject matter has been deleted as applicant requested.

Joseph K. McKane

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

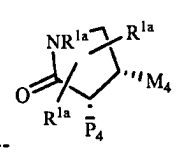
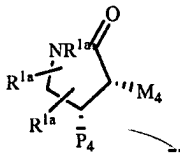
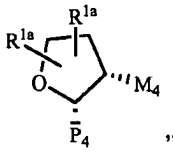
PATENT NO. : 7,205,318
APPLICATION NO.: 10/801,469
ISSUE DATE: 07/APR/2007

INVENTOR(S) : JENNIFER X. QIAO, TAMMY C. WANG, GREN Z. WANG, TIMUR GUNGOR

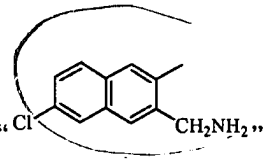
It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

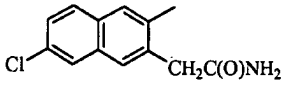
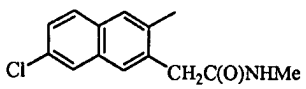
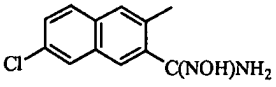
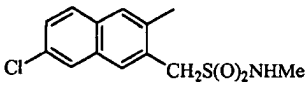
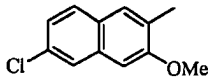
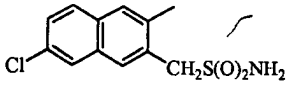
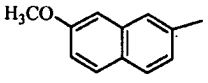
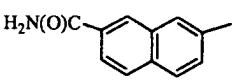
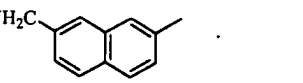
Title Page:
Section 54, Title should read: LACTAM-CONTAINING CYCLIC DIAMINES AND DERIVATIVES AS FACTOR XA INHIBITORS

Column 202:

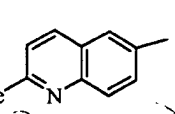
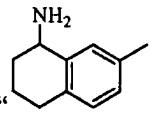
Line 60, insert --  and  -- after "  ".

Column 210:

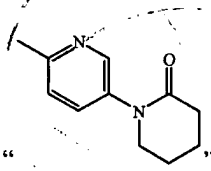
Line 20, insert the following after "  "

--   --;

Line 35, insert --  -- after "  ".

Column 221:

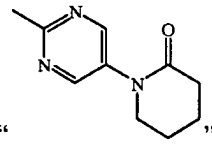
Line 15, delete "  ";

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

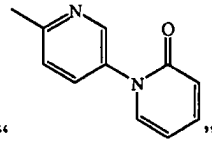
PATENT NO. : 7,205,318
APPLICATION NO.: 10/801,469
ISSUE DATE: 07/APR/2007
INVENTOR(S) : JENNIFER X. QIAO, TAMMY C. WANG, GREN Z. WANG, TIMUR GUNGOR

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

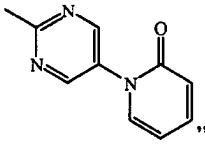
Column 221:

Line 25, delete "  ";

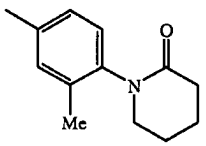
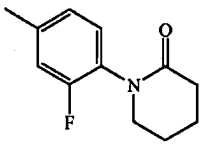
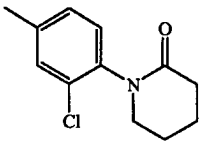
OK

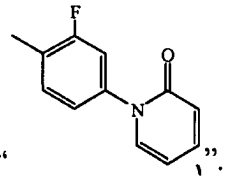
Line 30, delete "  ";

OK

Line 40, delete "  ";

OK

Line 40, insert --    --

after "  ".

Delete lines 45-65.

OK

Column 222:
Delete lines 5-65.

OK

Column 223:
Delete lines 5-20;

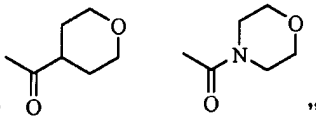
OK

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

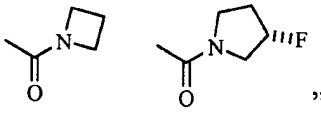
PATENT NO. : 7,205,318 Page 3 of 3
APPLICATION NO.: 10/801,469
ISSUE DATE: 07/APR/2007
INVENTOR(S) : JENNIFER X. QIAO, TAMMY C. WANG, GREN Z. WANG, TIMUR GUNGOR

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Column 223:

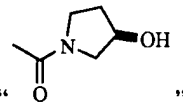
Line 60, delete "  ";

O/K

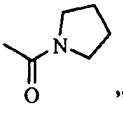
Line 65, delete "  ".

O/K

Column 224:

Line 5, delete "  ";

O/K

Line 20, delete "  ".

O/K

Certificate of Correction (PTO Form 1050) (reproduced)

PATENT NO.: 7,205,318

MAILING ADDRESS OF SENDER:
Bristol-Myers Squibb Company
c/o Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. PATENT: 7,205,318

PATENTEE: Mimi L. Quan, et. al.

ISSUED: November 21, 2006

ASSIGNEE: Bristol Myers Squibb Company

TITLE: TETRAHYDROQUINOLINE DERIVATIVES USEFUL AS SERINE PROTEASE INHIBITORS

Commissioner for Patents
Attn: Certificate of Correction Branch
P.O. Box 1450
Alexandria, VA 22313-1450

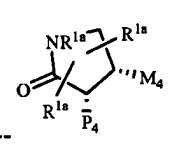
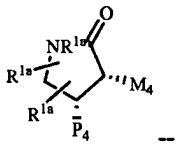
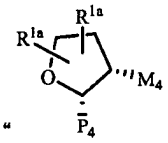
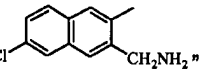
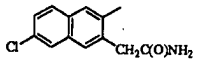
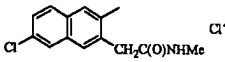
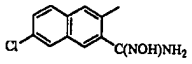
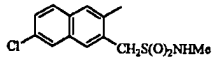
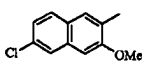
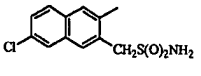
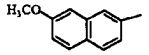
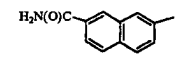
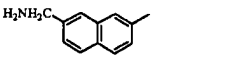
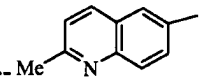
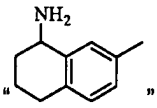
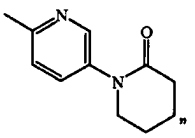
Sir:

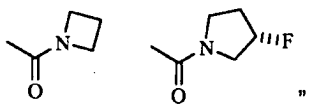
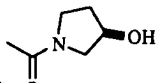
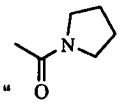
REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT PURSUANT TO 37 C.F.R §1.322

The patentees through their agent hereby respectfully request that a certificate of correction be issued to correct printing errors in accordance with the attached Certificate of Correction Form 1050 herewith.

Pursuant to 37 C.F.R §1.322, patentees request that a certificate of correction enclosed herewith be issued for mistakes tabulated in Table 1. Support for the requested corrections can be found in the application, Applicant's Amendment filed on October 12, 2006 and Examiner's Amendment of November 28, 2006.

Table 1 : Mistakes made by the Patent and Trademark Office

Corrections requested in the patent:	**Errors shown correctly in Application, Applicant's Amendment of 10/12/2006 or Examiner's Amendment of 11/28/2006:**
Title Page: Section 54, Title should read: LACTAM-CONTAINING CYCLIC DIAMINES AN DERIVATIVES AS FACTOR XA INHIBITORS	Application, page 1
Column 202: Line 60, insert --  and  -- after  " "	Amendment of 10/12/2006, page 3 Examiner's amendment of 11/28/2006, page 4
Column 210: Line 20, insert the following after "  "          -- --	Amendment of 10/12/2006, page 21
Column 210: Line 35, insert --  -- after "  "	Amendment of 10/12/2006, page 23
Column 221: Line 15, delete "  "	Amendment of 10/12/2006, page 49

Column 223: Line 65, delete "  "	Amendment of 10/12/2006, page 52
Column 224: Line 5, delete "  "	Amendment of 10/12/2006, page 52
Column 224: Line 20, delete "  "	Amendment of 10/12/2006, page 52

Please send the Certificate to:

Bristol-Myers Squibb Company
c/o Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000

Bristol-Myers Squibb Company
(Assignee)

/jing.g.sun/
(Person authorized to sign on behalf of assignee)
Jing G. Sun
Patent Agent

Assignment on the above patent was recorded on June 9, 2004, Reel 014713, Frame 0268 (5 pages); on July 9, 2004, Reel 015548, Frame 0459 (6 pages); and on February 14, 2005, Reel 015709, Frame 0069 (4 pages).

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000

/jing.g.sun/
Jing G. Sun, Ph.D.
Reg. No. 45,914
Phone: 609-252-3791
Date: May 4, 2007

Attachment (Form 1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 3400
CHICAGO, IL 60661

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AUG 1 8 2004

OFFICE OF PETITIONS

In re Application of :
Kubler, et al. :
Application No. 10/801,472 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 14364US12 :

This is a decision on the papers styled, "Petition Under 37 CFR 1.182 Response To Notice Of Omitted Item(s) In A Nonprovisional Application," 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 March 16, 2004, including page 122 of the specification.

The application was filed on March 16, 2004. However, on June 2, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Omitted Item(s) In A Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 122 of the specification appears to have been omitted.

In response, on July 19, 2004, the instant petition and a copy of page 122 of the specification were submitted. The petition was accompanied by a copy of applicant's postcard receipt that acknowledges receipt of three hundred twenty (320) pages of specification on March 16, 2004. A review of the application file indicates the presence of three hundred nineteen (319) pages of specification. It is assumed that page 122 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The $130.00 petition fee, submitted March 16, 2004, will be refunded to deposit account no. 13-0017.

This application will be returned to OIPE for further processing with a filing date of March 16, 2004, using the copy of page 122 of the specification, supplied on July 19, 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 & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR **PATENT** FEE REFUND

1 Date of Request: 8/17/04 | 2 Serial/Patent # 10/801,472

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	IFW	7/19/04	$ 130 —
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130 —

8 TO BE REFUNDED BY:

	Treasury Check
✓	Credit Deposit A/C #:

9 13--0017

10 REASON:

	Overpayment
	Duplicate Payment
✓	No Fee Due (Explanation):

PTO Error

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: E. Tannouse TITLE: Pet-Atty.

SIGNATURE: [signature] PHONE: 306-9200

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [signature] DATE: 8/18/04

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue N.E.
Bellevue, WA 98004-5973

Mail Date: 04/21/2010

Applicant	: Enrico Temporiti Milani	: DECISION ON REQUEST FOR
Patent Number	: 7609117	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/801,482	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/28/2010

Applicant	: Chi-Yin Wong	: DECISION ON REQUEST FOR
Patent Number	: 7630382	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/801,489	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1110** 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.: 20071005

DATE : 10/02/07

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/801490** Patent No.: **7245255**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

A Green

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Thomas A. Dawson — SPE

3662 — Art Unit

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 17 2004

OFFICE OF PETITIONS

In re Application of :
Theodore W. Walter, et al. :
Application No. 10/801,494 :
Filed: March 15, 2004 :
Attorney Docket No. 018684-001312US :

ON PETITION

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**.

Receipt is acknowledged of the Application Data Sheet filed August 3, 2004, with the instant petition.

Telephone inquiries concerning this matter may be directed to Retta Williams at (703) 306-5594.

This matter is being referred to the Office of Initial Patent Examination for consideration of the Notice to File Missing Parts.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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JAN 14 2005

OFFICE OF PETITIONS

In re Application of :
Keith Antonio Dixon :
Application No. 10/801,500 :
Filed: March 15, 2004 : ON PETITION
Attorney Docket No. 77137 :

This is a decision on the "Petition For Review of Omitted Items...", filed December 20, 2004, requesting in effect, that the "Notice To File Missing Parts" mailed October 22, 2004, in the above-identified application be withdrawn and that the above-identified application, including Page 1 of the specification, be accorded a filing date of March 15, 2004. The petition is treated under 37 CFR 1.182.

The petition is **GRANTED**.

The application was filed on March 15, 2004. However, on October 15, 2004, the Office of Initial Patent Examination mailed a "Notice To File Missing Parts in a Nonprovisional Application," stating that the application had been accorded a filing date; however, Page 1 of the specification appeared to have been omitted.

Petitioner argues that Page 1 was filed with the other application papers on March 15, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of March 15, 2004, displaying the above-identified application number and acknowledges receipt of, *inter alia*, 14 pages of specification

A review of the record reveals that no Page 1 of the specification has been located among the application papers deposited on March 15, 2004. However, the evidence is convincing that the application papers deposited on March 15, 2004, included Page 1 of the specification, which was subsequently misplaced in the Office. Therefore, the application, including Page 1 of the specification, is entitled to a filing date of March 15, 2004.

The "Notice" mailed on October 22, 2004, is vacated.

In view of the above, the petition fee will be refunded to deposit account, No. 06-1135.

The application will be processed and examined using the copy of Page 1 supplied on December 20, 2004.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 15, 2004, using the application papers filed on March 15, 2004 and the copy of Page 1 of the specification supplied on December 20, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney in the Office of Petitions at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E FIFTH STREET
CINCINNATI, OH 45202

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of :
Xiaoyang Qi :
Application No. 10/801,517 : DECISION ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. :
00108720529639

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 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.

No Notice of Abandonment has been mailed in this application. However, the application is abandoned, by operation of law, for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 16, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal

disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C).

This petition lacks item (3) above. In this regard, the statement of unintentional delay in the petition is directed towards a failure to timely notify the Office of the filing of a foreign application. However, as this application became abandoned for failure to file a timely and proper reply to the final Office action of November 16, 2006, the statement of unintentional delay should have 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." The incorrect petition form was used for seeking revival of this application, especially in view of the fact that this application could not have gone abandoned for failure to timely notify the Office of the filing of a foreign application as there was no nonpublication request on filing of this application. The correct petition form number is PTO/SB/64.

In order to expedite processing of the renewed petition under 37 CFR 1.137(b), petitioner may wish to contact the undersigned of the filing thereof.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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201 E FIFTH STREET
CINCINNATI, OH 45202

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JUL 24 2007

OFFICE OF PETITIONS

In re Application of :
Xiaoyang Qi :
Application No. 10/801,517 : DECISION ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. :
00108720529639

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned, by operation of law, for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 16, 2006, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 17, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply, unless previously filed; (**2**) the petition fee as set forth in 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of a request for continued examination, $395 filing fee, and submission as required by 37 CFR 1.114, (2) the petition fee of

$750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the final Office action of November 16, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1643 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114 received June 20, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Mitsuaki Osame, et al. :
Application No.: 10/801,542 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No.: 740756-2717 :

This is a decision on the petition, filed April 27, 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 March 16, 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 2629 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.*

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NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Mail Date: 04/26/2010

Applicant	: Mitsuaki Osame	: DECISION ON REQUEST FOR
Patent Number	: 7589698	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/801,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **855** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/22/2010

Applicant	: Tetsuya Niitsuma	: DECISION ON REQUEST FOR
Patent Number	: 7616334	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/801,558	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1517** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL -9 2004

In re Application of	:	
Donald A. Fraser	:	
Serial No. 10/801,580	:	DECISION ON PETITION
Filed: March 17, 2004	:	TO MAKE SPECIAL
For: FISHERMAN'S UTILITY ROD HOLSTER	:	

Applicant's petition, filed March 17, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Litman Law Offices, Ltd.
P.O. Box 15035
Arlington, VA 22215

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Rabin & Berdo, PC
Suite 500
1101 14th Street, NW
Washington, DC 20005

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Patent of Cheng et al.	:	
Patent No. 7,118,121	:	
Issue Date: October 10, 2006	:	Letter
Application No. 10/801,582	:	
Filing Date: March 17, 2004	:	
Attorney Docket No. 3313-1134P	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 29, 2006.

The deficiency payment of $405 is hereby accepted.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Won-chul Bang	: DECISION ON REQUEST FOR
Patent Number	: 7580572	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/801,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORGAN & FINNEGAN, LLP
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Sakari Kotola et al	:	
Application No. 10/801,598	:	DECISION GRANTING PETITION
Filed: March 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4208-4183 (NC45113)	:	

This is a decision on the petition, filed February 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 December 22, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Feb10\801598.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON DC 20005-3096

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APR 30 2008

OFFICE OF PETITIONS

In re Patent No. 7,246,425 :
Issue Date: July 24, 2007 :
Application No. 10/801,604 : DECISION ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. 050049-0043 :

This is a decision on the "PETITION UNDER 37 CFR § 1.183 TO CORRECT ASSIGNEE INFORMATION", filed August 28, 2007.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

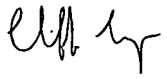
[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee set forth in 37 CFR 1.17(i) and the $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

---

[2] MPEP 307.

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THOMPSON E. FEHR
SUITE 300
GOLDENWEST CORPORATE CENTER
5025 ADAMS AVENUE
OGDEN, UT 84403

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AUG 15 2008

In re Application of :
Ralph S. Norman :
Application No. 10/801,626 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. PNORMI :

This is a decision on the petition, filed April 8, 2008, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **granted**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliant Appeal Brief under 37 CFR 41.37(c)(1), mailed May 1, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 2, 2007. *See* MPEP 1215.04. A Notice of Abandonment was mailed on February 8, 2008. In response, on July 25, 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 submitted (1) the reply in the form of an amended Appeal Brief; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3683.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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FEB 16 2007

OFFICE OF PETITIONS

BOTKIN & HALL, LLP
105 E. JEFFERSON BLVD.
SUITE 400
SOUTH BEND, IN 46601

In re Application of :
Lewis R. Marcotte :
Application No. 10/801,631 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 217-002.001 LG PLUMBING :

This is a decision on the petition, filed August 7, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed January 17, 2006. A Notice of Abandonment was mailed on June 22, 2006. In response, on August 7, 2006, the present petition was filed.

The petition is found to comply with the requirements of 37 CFR 1.137(b).

The application is being referred to the Office of Publications to oversee the review of the drawing filed August 7, 2006.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SEP 15 2006

OFFICE OF PETITIONS

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

In re Patent No. 6,936,476	:	
Issued: February 14, 2006	:	LETTER REGARDING PATENT TERM
Application No. 10/801,635	:	ADJUSTMENT
Filed: March 16, 2004	:	
Atty. Dkt. No. 52184/RDS/M54	:	

This letter is in response to the communication received April 3, 2006 regarding the patent term adjustment accorded the above-identified patent. This matter is being treated under 37 CFR 1.705(d) as an application for patent term adjustment.

The above-identified application matured into U.S. Patent No. 6,997,681 on February 14, 2006. The patent issued with a PTA of 122 days.

The instant application for patent term adjustment lacks the required application fee, currently, $200.00. In accordance with 37 CFR 1.705(d), an application for patent term adjustment must be accompanied by the required $200.00 application fee. As the instant application for patent term adjustment lacks the required fee, treatment on the merits is precluded.

Accordingly, the instant request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within one month of the mail date indicated above and must include evidence to establish prior receipt of the required application fee. Extensions of time under 37 CFR 1.136 are not permitted.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Takashi Iwami :
Application No. 10/801,638 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. Q80393 :

This is a decision on the petition under 37 CFR 1.313 (c)(2), filed July 8, 2005, 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 22, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2675 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Eitan, Pearl, Latzer & Cohen Zedek LLP
10 Rockefeller Plaza, Suite 1001
New York, NY 10020

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MAR 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Uri Adler, et al.	:	
Application No. 10/801,680	:	ON PETITION
Filed: March 17, 2004	:	
Attorney Docket No. P-5721-US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

A Notice to File Corrected Application Papers was mailed to applicant on June 3, 2004, which set a two (2) month shortened statutory period for reply. As no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on August 4, 2004.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, drawings. Receipt of the drawings is acknowledged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223.

The application file is being referred to the Office of Initial Patent Examination.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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MAIER & NEUSTADT PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of :
Kenichiro Kobayashi :
Application No. 10/801,682 : DECISION GRANTING PETITION
Filed: March 17, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 250486US6 :

This is a decision on the petition, filed January 17, 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 January 3, 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 2837 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\Jan10\801682.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. : 7,324,173 B2
Serial No. : 10/801,688
Inventor(s) : Li et al.
Issued : January 29, 2008
Title : **SIDE FIXING FRAME FOR A LIQUID CRYSTAL DISPLAY DEVICE**
Docket No. : **82802**
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**

THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

ecw

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ALEXANDRIA, VA 22314

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APR 13 2009

OFFICE OF PETITIONS

In re Patent of Enomoto et al. :
Patent No. 7,460,156 :
Issue Date: December 2, 2008 :
Application No. 10/801,703 :
Filing Date: March 17, 2004 :
Attorney Docket No. 500.43678X00 :

Letter

This is a letter in response to the request under 37 CFR 3.81, filed January 5, 2009, requesting the Office 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.

Patentees have met the requirements set forth above. Therefore, the request is granted.

The Certificates of Correction Branch will be informed of the instant decision and the requested certificate of correction will be issued in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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SEP 2 8 2005

Technology Center 2100

In re Application of:
HIRAIWA et al.
Application No. 10/801,718
Filed: March 17, 2004
For: DATA DUPLICATION CONTROL METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on July 27, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 27, 2005 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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BRUNDIDGE, P.C.
1800 Diagonal Road
Suite 370
Alexandria, VA 22314

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AUG 2 3 2005

Technology Center 2100

In re Application of:
SHIGA et al.
Application No. 10/801,720
Filed: March 17, 2004
For: PATH CONTROL SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed on January 27, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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 January 27, 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 : March 8, 2007

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No. 10/801722 patent No.: 7098046

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 to column 7 does not apply

Paul Whitehead 2813

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
James F. Salzman et al. :
Application No. 10/801,738 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No.: TI-36932 (032350.B590) :

This is a decision on the petition filed June 27, 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 December 6, 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 March 7, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The petition fee in the amount of $1500.00 has been charged to petitioner's deposit account. Petitioner is advised that the fee was increased from $1300.00 to $1500.00 on December 8, 2004.

This matter is being referred to Technology Center 2814 for appropriate action on the amendment filed June 27, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST. LOUIS, MO 63101

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Rudolph N. Yurkovich :
Application No. 10/801,750 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 66638-44519 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 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 Office letter mailed August 9, 2004, which set a period of thirty days. Accordingly, the above-identified application became abandoned on September 10, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3643 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

8-15-08

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,264,857
Ser. No. : 10/801,753
Inventor(s) : Berchtold, et. al.
Issued : September 4, 2007
Title : CONTRUCTIONAL UNIT AND METHOD FOR PRODUCING A CONSTRUCTUONAL UNIT OF THIS KIND
Docket No. : 21334-1311

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or (703) 308-8309 ext.125

Jennifer Mae Slonaker
Barley Snyder LLC
P.O. Box 1559, Lancaster, PA 17608-1559

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

BARLEY SNYDER, LLC
1000 WESTLAKES DRIVE, SUITE 275
BERWYN, PA 19312

COPY MAILED

OCT 2 1 2008

OFFICE OF PETITIONS

In re Patent No. 7,264,857 :
Issue Date: September 4, 2007 :
Application No. 10/801,753 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 21334-1311 :

This is a decision on the petition filed December 3, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES 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-06

3D SYSTEMS, INC.
26081 AVENUE HALL
VALENCIA CA 91355

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MAR 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Schaffer et al.	:	DECISION DISMISSING PETITION
Application No. 10/801,761	:	UNDER 37 CFR 3.81(b)
Filed: 15 March, 2004	:	
Atty Docket No. USA.301-1	:	

This is a decision on the petition, filed on 28 September, 2005, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the Fee(s) Transmittal form PTOL-85(b).

The request is **dismissed**.

Petitioner states that the correct assignee is UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA, and that an incorrect assignee was unintentionally specified on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA.

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.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth UNIVERSITY OF QUEENSLAND, QUEENSLAND, AUSTRALIA, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the

front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at 703.305.8309.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/9/09

TO SPE OF : ART UNIT 3694

SUBJECT : Request for Certificate of Correction for Appl. No.: 10801782 Patent No.: 7395233 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can FAX the Director's SPE response to 571-270-9390

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

JAMES P TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

2/27/09

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

March 14, 2004

PETITION TO THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

Subject Matter: Advancement of Examination under 37 CFR paragraph 1.102(c) of the present Application for Utility Patent with Title: "Method and Apparatus for achieving Worldwide Reduction of Carbon Dioxide Emissions and Deforestation", Application Number 60/475,468, first filed on 06/04/2003 as a Provisional Application.

Serial # 10/801864 A.U. 1753
File date # 3-19-04 Ex. Fick, M

Dear Sir,

Applicant and Inventor respectfully requests the present application to be made special and respectfully requests advancement of examination under 37 CFR paragraph 1.102(c) on the basis of the following considerations:

- Applicant and Inventor hopes to become 71 years of age on April 15, 2004; and includes a copy of the relevant page of his passport to substantiate this statement.
- The present invention materially enhances the quality of the environment, the apparatus of the present invention can reduce emissions of carbon dioxide by up to 15 tons per family per year, as further described in the background part of the description of the present invention.
- The present invention materially contributes to the development or conservation of energy resources, the apparatus of the present invention can reduce kerosene use for cooking needs by up to 5 barrels per family per year, as further described in the background part of the description of the present invention, and can furthermore reduce kerosene use for lighting needs by a similar number of barrels per family per year.

Thanking you in advance for your kind consideration of the present request, I remain,

Very truly and respectfully yours,

M. M. Romijn

Maarten Martinus Romijn
Applicant and Inventor

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAY 29 2007

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)
6,892,675	2005-05-17	10801873	2004-03-16	

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

Sole Patentee			
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	/PaulComerford/	Date (YYYY-MM-DD)	2009-05-29
Name	Paul Comerford		

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. 6892675
Issue Date: May 17,2005
Application No. 10801873
Filed: March 16,2004
Attorney Docket No. 1351

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 11,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 11,2009 . 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

GERALD T. SEKIMURA
DLA PIPER US LLP
153 TOWNSEND STREET
SUITE 800
SAN FRANCISCO, CA 94107-1957

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Shui T. Lai	:	DECISION ON PETITION
Application No. 10/801,891	:	TO WITHDRAW
Filed: March 15, 2004	:	FROM RECORD
Attorney Docket No. DL-06-01CIP-CON-DIV-CON	:	

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 14, 2006.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 26, 2006 the power of attorney was revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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: SF Bay Area Patents, LLC
Attn: Andrew V. Smith, Ph.D.
601 Van Ness Avenue, #1108
San Francisco CA 94102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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SEP 14 2006

OFFICE OF PETITIONS

In re Application of
Jiao et al.
Application No. 10/801,894
Filed: March 16, 2004
Attorney Docket No.:IS01422AP

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed October 5, 2005. The Office Action set a one (1) 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 November 6, 2005. A Notice of Abandonment was mailed on May 9, 2006.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the Response to the Restriction Requirement 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
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 B. F. Yee
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

MAILED

SEP 2 8 2005

Technology Center 2100

In re Application of:
Yuichi YAGAWA
Application No. 10/801,898
Filed: March 15, 2004
For: LONG TERM DATA PROTECTION SYSTEM AND METHOD

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on August 5, 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.

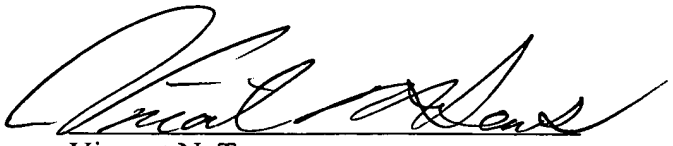
The petition is **GRANTED**.

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 5, 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

Thompson E. Fehr
Suite 300
Goldenwest Corporate Center
5025 Adams Avenue
Ogden UT 84403

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of

Ryan C. Hoth :

Application No. 10/801,916

: DECISION ON PETITION

Filed: March 15, 2004

:

Attorney Docket No. PHOTRC

This is a decision on the petition under 37 CFR 1.137(b), filed, March 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 27, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on September 28, 2006. A Notice of Abandonment was mailed on January 10, 2007.

The amendment filed March 9, 2007, is noted.

The application is being forwarded to Technology Center 3600, GAU 3611 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ADE & COMPANY INC.
P.O. BOX 28006
1795 HENDERSON HIGHWAY
WINNIPEG MB R2G1P0
CANADA **AIR MAIL**

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of :
Linton Wiebe :
Application No. 10/801,941 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. 83438-102 ADB :

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2006, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

This application became abandoned on January 4, 2006, for failure to pay the issue and publication fees and submit timely corrected drawings as required by the Notice of Allowance and Notice of Allowability, respectively, mailed on October 3, 2005. A Notice of Abandonment was mailed on February 22, 2006.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

> (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) The petition fee as set forth in 37 CFR 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to § 1.137(d).

The present petition does not satisfy requirement (1) above.

On October 3, 2005, the Office mailed a Notice of Allowability, requiring corrected drawings. Upon reviewing the record, it appears that petitioner did not file any corrected drawings with the present petition as required by the Notice of Allowability. Pursuant to the provision of 37 CFR 1.137(b)(1) and in accordance with 35 USC §§ 133 and 151, the submission of corrected drawings is a necessary component of the required reply. Accordingly, **this application cannot be revived until petitioner submits corrected drawings**.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ADE & COMPANY INC.
P.O. BOX 28006
1795 HENDERSON HIGHWAY
WINNIPEG MB R2G1P0
CANADA

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JAN 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Linton Wiebe :
Application No. 10/801,941 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. 83438-102 ADB :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 16, 2006, to revive the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The undersigned immediately reviewed the merits of the petition upon receipt. The Office sincerely apologizes for any inconvenience.

This application became abandoned on January 4, 2006, for failure to pay the issue and publication fees and submit timely corrected drawings as required by the Notice of Allowance and Notice of Allowability, respectively, mailed on October 3, 2005. A Notice of Abandonment was mailed on February 22, 2006. On March 6, 2006, petitioner filed a petition under 37 CFR 1.137(b), which was dismissed by the decision of September 19, 2006. On October 16, 2006, petitioner filed the present renewed petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee, and (3) an adequate statement of unintentional delay. Accordingly, the petition is **granted**.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement 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.

This matter is being referred to the Office of Patent Publication for issuance as a patent.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dicke, Billig & Czaja, PLLC
ATTN: Christopher McLaughlin
Fifth Street Towers, Suite 2250
100 South Fifth Street
Minneapolis, MN 55415

Mail Date: 04/21/2010

Applicant	: John T. Strom	: DECISION ON REQUEST FOR
Patent Number	: 7633306	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/801,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

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DEC 1 0 2008

OFFICE OF PETITIONS

SUNBEAM PRODUCTS, INC.
2381 EXECUTIVE CENTER DRIVE
BOCA RATON, FL 33431

In re Application of :
Hongyu Wu et al :
Application No. 10/801,950 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 37469-8001.US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 12, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 13, 2008.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1791 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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/801,950	03/15/2004	Hongyu Wu	37469-8001.US01

CONFIRMATION NO. 2929

73723
Sunbeam Products, Inc.
2381 Executive Center Drive
Boca Raton, FL 33431

POA ACCEPTANCE LETTER

OC000000033453894

Date Mailed: 12/04/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/801,950	03/15/2004	Hongyu Wu	37469-8001.US01

CONFIRMATION NO. 2929

22918
PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

POWER OF ATTORNEY NOTICE

OC000000033453830

Date Mailed: 12/04/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2008.

- 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).

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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MAR 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Brant CANDELORE :
Application No. 10/801,962 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. 80398P577 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application and the petition under 37 CFR 1.182, filed February 28, 2008, for expedited consideration.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 19, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 19, 2007. Accordingly, the date of abandonment of this application is January 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David A. 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

Robert Berliner
BERLINER & ASSOCIATES
31st Floor
555 W. Fifth Street
Los Angeles CA 90013

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SEP 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,094,929 :
Issue Date: August 22, 2006 :
Application No. 10/801,963 :
Filed: March 15, 2004 :
Attorney Docket No. LA-1279-403US :

NOTICE

This is a notice regarding your request, filed December 18, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This file is no longer entitled to small entity status. Accordingly, all future fees paid in this file must be paid at the large entity rate, absent further notification from a proper party of a change in status. *See* 37 CFR 1.27(c)(2).

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES 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 E. FELDMAN, P.C.
12 EAST 41ST STREET
NEW YORK, NY 10017

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MAR 23 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth Shotwell et al :
Application No. 10/801,967 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed June 3, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 4, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). The petitions lacks item (1).

As to item (1), the current fee for claims over 20 is $25.00. Petitioner has paid a total of $63.00 towards to the claims fee. Therefore, petitioner still owns an additional of $112.00.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

OIPE
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PATENT & TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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May 23 2005 RH

STEPHEN E. FELDMAN, P.C.
12 EAST 41ST STREET
NEW YORK, NY 10017

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MAR 23 2005

OFFICE OF PETITIONS

In re Application of
Kenneth Shotwell et al
Application No. 10/801,967
Filed: March 15, 2004
Attorney Docket No. None

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 11, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed June 3, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 4, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). The petitions lacks item (1).

As to item (1), the current fee for claims over 20 is $25.00. Petitioner has paid a total of $63.00 towards to the claims fee. Therefore, petitioner still owns an additional of $112.00.

04/05/2005 YPOLITE1 00000025 10801967
01 FC:2202 125.00 OP

Adjustment date: 04/05/2005 YPOLITE1
03/14/2005 HALI11 00000017 10801967
03 FC:2622 -13.00 OP

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN E. FELDMAN, P.C.
12 EAST 41ST STREET
NEW YORK, NY 10017

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APR 13 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth Shotwell et al :
Application No. 10/801,967 : ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. None :

This is a decision on the letter filed April 4, 2005, which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for preexamination processing.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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APR 0 7 2008

OFFICE OF PETITIONS

In re Application of :
Kenneth SHOTWELL et al :
Application No. 10/801,967 : DECISION ON PETITION
Filed: March 15, 2004 :
Attorney Docket No. none :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 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 November 28, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 28, 2007. Accordingly, the date of abandonment of this application is November 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051, or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

for David A. 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

Steven L. Highlander, Esq.
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin, TX 78701

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of
Long et al. :
Application No. 10/801,985 :
Filed: March 16, 2004 : NOTICE
Attorney Docket Number: MYOG:034US :

This is a notice regarding your request to change your entity status to large.

In accordance with 37 CFR 1.28, said notice is hereby accepted. Office records have been corrected to indicate loss of small entity status in the above-identified application.

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

P.O. Box 1450, Alexandria, Virginia 22313-1450 – www.uspto.gov

PETITION DECISION

05/11/04

Hale and Dorr LLP
Ann-Louise Kerner, PH.D.
60 State Street
Boston MA 02109

Dear Applicant:

The Box PG Pub replacement drawings for application number 10/801988 received on 04/28/04 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
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DARLA A.YOERG
SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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OFFICE OF PETITIONS

In re Application of	:	
Aaron B. Kantor, et al.	:	
Application No. 10/801,990	:	DECISION ON REQUEST
Filed: March 15, 2004	:	TO WITHDRAW
Attorney Docket No. 4220.99	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed February 25, 2005.

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.

The Office will continue to direct all future communications to the below-listed address until otherwise notified by applicant.

Applicant should note that there is an outstanding Office action, mailed June 2, 2006, that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: J. Keith Joung	: DECISION ON REQUEST FOR
Patent Number	: 7393318	: RECALCULATION of PATENT
Issue Date	: 07/01/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/801,994	: OF WYETH
Filed	: 03/16/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. BOX 3791
ORLANDO FL 32802-3791

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APR 13 2007

OFFICE OF PETITIONS

Patent No. 6,970,143 :
Issued: November 29, 2005 :
Application No. 10/801,995 : DECISION ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 51363 (GCSD1511) :

This is a decision on the petition, filed, January 9, 2006 and supplemented on August 11, 2006, under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the second assignee's name is Starsys Research Corporation and that the second assignee's name was erroneously 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 correct assignees on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Starsys Research Corporation is the second 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 be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. 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 after issuance of this application into a patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

HOLLINGSWORTH & FUNK, LLC
8009 34TH AVE. S.
SUITE 125
MINNEAPOLIS, MN 55425

In re Application of	:	
Jaeho Kim	:	**DECISION ON PETITION**
Application No. 10/802,001	:	
Filed: 03/16/2004	:	
Attorney Docket No. GUID.004C1	:	

This is a decision on the Petition Under 37CFR 1.81 (MPEP 711.03 (c)) To Withdraw Holding of Abandonment, received in the United States Patent and Trademark Office (USPTO) January 28, 2008.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the Issue fee and Publication fee as required by the Notice of Allowance, mailed August 16, 2007 which set forth a three (3) month statutory period for reply. The issue fee transmittal was received on November 16, 2007 but Deposit Account # 50-3581 had insufficient funds to charge the required fees. Accordingly, the Notice of Abandonment was mailed on December 12, 2007.

Petitioner states that the Issue Fee was timely filed with the Office on November 16, 2007. Petitioner further states that while Deposit Account #50-3581 did have insufficient funds to charge the fee, the insufficiency was due to erroneous charges made against the account by the USPTO. In support of this, Petitioner submitted a copy of a letter received in the office on January 28, 2008 requesting correction of several erroneous charges. These erroneous charges took place between October 22, 2007 and November 23, 2007 in the amount of $2, 330.00. Petitioner states that if the erroneous charges were not made, the Issue fee and Publication fee totaling $2000.00 would have been appropriately charged.

In view of the foregoing, the holding of abandonment for failure to timely submit the issue fee is hereby withdrawn and the application is restored to pending status.

The application will be forwarded to the Publications Branch for processing.

Telephone inquires relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

Kimberly Terrell, Manager
Office of Data Management
Publications Branch

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REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Virginia 22042

MAILED

JAN 25 2006

TECHNOLOGY CENTER 2100

In re Application of:
FUJIBAYASHI
Application No. 10/802,003
Filed: March 17, 2004
For: HEARBEAT APPARATUS VIA REMOTE MIRRORING LINK ON MULTI-SITE AND MEHTOD OF USING THE SAME

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petitions, filed on 01 July 2005, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR § 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §§ 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 01 July 2005 meets all the criteria set out above.

Accordingly, the petition is **GRANTED**. The application is being forwarded to the examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

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MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

Mail Date: 04/21/2010

Applicant	: Leo M. Pedlow JR.	: DECISION ON REQUEST FOR
Patent Number	: 7620180	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/802,008	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1396** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAY 07 2007

James P. Kastenmayer
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YOUR AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of	:
BENOIT, PATRICK et al	:
Serial No.: 10/802,030	:Decision on Petition
Filed : March 17, 2004	:
Attorney Docket No.: 07586.0530-01	:

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181 filed on January 23, 2007 requesting reconsideration of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

On July 19, 2006, the examiner mailed a restriction requirement in which the original claims 1-21 were divided into 16 groups.

On August 8, 2006, Applicants elected Group I (Claims 1, 2, 7, and 9-19) and SEQ ID No 3 with traverse.

On October 19, 2006 the examiner considered the traversal, made the restriction requirement FINAL and mailed to applicants a non-final Office action, in which Group I (Claims 1, 2, 7, and 9-19) drawn to SEQ ID NO 3 were searched and examined on the merits. It is noted that the Office action summary form, (PTOL-326) incorrectly stated that claims 1, 2 7 and 9-19 are allowable. Claims 1, 2, 7 and 9-19 were in fact rejected under 35 USC 101 (product of nature), 35 USC 112, first paragraph (written description) and 35 USC 102(b). The claims under examination were drawn to SEQ ID NO 3.

On January 23, 2007, applicants filed this petition to request that the Office reconsider the restriction requirement, along with a response to the Office action mailed 19 October 2006.

DISCUSSION

The petition and file history have been carefully considered. The petition sets forth several issues which will be addressed in turn.

The petition asserted that a search of the prior art related to the claimed sequences does not constitute an undue burden on the examiner. The petition cites MPEP 803.04 directed to the 1996 OG Notice, which granted a partial waiver for independent and distinct inventions. This argument has been reviewed but is not convincing. However, an OG Notice published March 27, 2007 rescinded the 1996 OG Notice that provided for a partial waiver of the requirements for restriction practice by permitting examination of a reasonable number, up to ten, independent and distinct polynucleotide molecules in a single 35 USC 111(a) or 35 USC 371 application. The Notice indicated that the standard of independence and distinctness would be applied to polynucleotide claims filed in an application under 35 USC 111(a).

The petition argues that applicants' sequences are six nested sequences, corresponding to SEQ ID NO:s: 2-7 and a further sequence, SEQ ID NO: 9, which applicants admit was known in the prior art at the time the application was filed. The polynucleotide of Group XVI (claim 21) SEQ ID NO: 2 does not appear to be a nested fragment of SEQ ID Nos 3-7. A Blast alignment of SEQ ID NO: 2 with SEQ ID NO: 3, for example, illustrated that nucleotides 1-376 of SEQ ID NO: 2 are 99% similar to nucleotides 683-1059 of SEQ ID NO: 3. The sequence alignment then appears to have a gap between the sequences, as nucleotides 427- 2052 of SEQ ID NO: 2 only align to nucleotides 1110-2739 of SEQ ID NO: 3. This region is only 98% similar. Moreover, claim 21 as currently amended requires SEQ ID NO 2 to be at least 772 residues in length. From the table below, one can see that SEQ ID No 2 only shares, at most 38 residues in common with SEQ ID Nos 3-7 and those 38 residues are not required by claim 21, as currently amended. Thus, SEQ ID NO: 2 and SEQ ID NO: 3 constitute distinct inventions Search and examination of SEQ ID NO 2 is likely to raise different issues, identity different prior art and result in different non-prior art issues than a search and examination of SEQ ID No 3-7, and vice versa. Thus the restriction requirement between Group I and Group XVI was proper.

SEQ ID NO:	CARP gene
3	-2702- +38
4	-2108- +38
5	-2011- +38
6	-1543- +38
7	-772- +38

Turning now to the restriction requirement made between Groups I-V, as shown above, combining SEQ ID NO: 3-7 into the same group as proposed by applicant is persuasive as the sequences all require residues -772 to +38 of the CARP gene. Thus SEQ ID Nos 3-7 are overlapping and within the scope of each other. A search of the overlapping sequences of SEQ ID NO 3-7 would not create a serious burden in this particular application. Therefore, the restriction requirement between Groups I-V is withdrawn.

The original restriction requirement separated Group I-V from Groups VI-X because Groups I-V are drawn to nucleic acids while Groups VI-X are drawn to expression cassettes. However, the original restriction placed the expression cassette in Groups I-V also. Moreover, the expression cassettes comprise the polynucleotides of Groups I-V and are thus not patentably distinct. Thus Groups I-V are not distinct from their corresponding Groups VI-X and the restriction requirement between Groups I-X is withdrawn.

The original restriction requirement divided claim 20 into Groups XI-XV. Claim 20 is a method of using a vector which requires one of the sequences of Groups I-X. For the same reasons that the Groups I-X have been rejoined into one invention, the restriction requirement between Groups XI-XV has been withdrawn.

The request to withdraw the restriction requirement made between the product inventions of Groups I-X and the process of using inventions Groups XI-XV is denied, as being premature, At this time not all the product claims are in condition for allowance. Should all the product claims become allowable and should all the withdrawn process claims depend from or otherwise include all the limitations of the allowable product claims, the examiner will consider rejoinder between product and process inventions, per MPEP 821.04(b).

DECISION

The petition is **GRANTED-IN-PART** for the reasons set forth above.

Rejoinder of Groups I-X is appropriate. The restriction requirement made between Groups I-X is withdrawn. Claims 1-2, 7, and 9-19 are under examination. Claims 3-6, 8 and 20 directed to SEQ ID NO: 4-7 are rejoined with the claims 1-2, 7 and 9-19 already under examination, and said claims will be examined together.

Rejoinder of Groups XI-XV into one group is appropriate. The restriction requirement made between Groups XI-XV is withdrawn.

The request to withdraw the restriction requirement between Groups (I-X) and Group XVI has been denied for reasons set forth above.

The request to withdraw the restriction requirement between product Groups (I-X) and process of using the product, Groups (XI-XV), has been denied as being premature, because the product claims are not yet in condition for allowance. Should all the product claims become allowable and should all the withdrawn process claims depend from or otherwise include all the limitations of the allowable product claims, the examiner will consider rejoinder between product and process inventions, per MPEP 821.04(b).

The application will be forwarded to the examiner for further action consistent with this decision and for the preparation of a new non-final action which addresses Group I-X as presented in the July 19, 2006 restriction requirement.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Chris Low
Director, Technology Center 1600
jb/jg

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JJGJR: 11-04

Paper No: __

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SUITE 900
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of
Vardi, et al :
Application No. 10/802,036 : ON PETITION
Filed: 17 March, 2004 :
Attorney Docket No.: 021617.0253C2US :

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 2 September, 2004.

The petition is **GRANTED**.

BACKGROUND

The record reflects that:

- this application was filed on 17 March, 2004, without, *inter alia*, an executed oath or declaration by the named inventors–i.e., it was signed by all named inventors Vardi, et al, save for Eitan Konstantino (Mr. Konstantino) and Tanhum Feld (Mr. Feld);

- accordingly, the Office mailed a Notice of Missing Parts on 4 June, 2004;

- Petitioner submitted on 2 September, 2004, *inter alia*, the instant petition (with fee), demonstrating, Petitioner has shown proprietary interest/irreparable harm and that, while all of the co-inventors Vardiu, et al., have signed the oath/declaration, save for the non-signing inventors Mr. Konstantino and Mr. Feld, who have refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Michele Van Patten Frank (Reg. No. 37,028) established that the non-signing inventors were mailed the application papers,

including the specification, claims and drawings, but failed to respond positively to the request that they sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §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 C.F.R. §1.47(a).

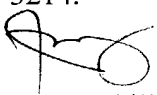
This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

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 forwarded to OIPE for processing as necessary to reflect the instant decision, and before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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MORRISON & MORRISON LLP
1650 TYSONS BOULEVARD
SUITE 400
McLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
Andreas Bausewein et al. :
Application No. 10/802,037 : DECISION ON PETITION
Filed: March 17, 2004 : TO WITHDRAW
Attorney Docket No. 449122071100 : 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 31, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request to withdraw cannot be approved because the attorney did not sign the request.

There are no outstanding office actions at this time.

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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bell, Boyd & Lloyd, LLP
P.O. Box 1135
Chicago, IL 60690

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OLEG F. KAPLUN
FAY, KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of :
Leemon C. Baird, III :
Application No. 10/802,073 : DECISION ON REQUEST FOR
Filed: March 16, 2004 : REVOCATION OF POWER
Attorney Docket No. TRO-0301C : OF ATTORNEY
:

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed March 7, 2007.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

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LAW OFFICE OF DALE B. HALLING LLC
655 SOUTHPOINTE CT, SUITE 100
COLORADO SPRINGS, CO 80906

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Leemon C. BAIRD III	:	
Application No. 10/802,073	:	DECISION ON PETITION
Filed: March 16, 2004	:	
Attorney Docket No. TRO-0301C	:	

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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 15, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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.

The person signing the petition requests a change of correspondence address to the address given in the petition. There is, however, no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the person desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2136 for appropriate action by the Examiner in the normal course of business on the reply received March 7, 2008.

April Wise
Petitions Examiner
Office of Petitions

cc: OLEG F. KAPLUN
FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

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JUL 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Claire B. Bass	:	
Application Number: 10/806082	:	DECISION ON PETITION
Filing Date: 03/22/2004	:	
Attorney Docket Number: SCF-87	:	

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.183," filed on July 16, 2009, which is treated as (1) a petition under 37 CFR 1.183 seeking waiver of 37 CFR 1.131 in that it requires that a declaration filed thereunder by signed by the sole inventor,[1] and (2) a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.183 is **dismissed as moot**.

The petition to withdraw the holding of abandonment is **granted**.

This application was filed on March 22, 2004. On July 29, 2004, a declaration under 37 CFR 1.63 was filed, naming Claire B. Bass as the sole inventor.

On December 12, 2007, a final Office action was mailed, setting a three (3) month period for reply.

On April 14, 2008, a Request for Continued Examination (RCE), submission under 37 CFR 1.114, a petition for a one (1) month extension of time, and a petition styled under 37 CFR 1.47(a), and declaration under 37 CFR 1.131 signed on behalf of the non-signing sole inventor by the assignee, was filed.

---

[1] Once an application has received a fully executed oath or declaration under 37 CFR 1.63 and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. See MPEP 603.

On November 12, 2008, a non-final Office action was mailed, stating, *inter alia*, that the declaration under 37 CFR 1.131 was improper.

In response, on March 12, 2009, the original petition paper was filed, accompanied by a one (1) month extension of time. Petitioners state that the declaration under 37 CFR 1.131 was sent to the non-signing inventor by email, but that no response was received.

On April 14, 2009, the petition was dismissed. The decision dismissing the petition set a two (2) month extendable period for reply. The decision further stated that a balance of $270.00 towards the petition fee was due.

On July 16, 2009, the subject renewed petition was filed, accompanied by payment of a one (1) month extension of time as well as the $270.00 balance due towards the petition fee.

PETITION UNDER 37 CFR 1.183

Petitioners state that subsequent to the filing of the original petition, the signature of the inventor on the declaration under 37 CFR 1.131 was obtained. A copy of the Declaration Under 37 CFR 1.131 bearing the signature of inventor Claire B. Bass is provided with the subject renewed petition.

As the inventor's signature has been provided, there is no need for further consideration of a petition to waive the rules to accept the declaration under 37 CFR 1.131 without the inventor's signature. Accordingly, the petition under 37 CFR 1.183 is **dismissed as moot**.

However, since petitioner received consideration on the merits in the original petition, which was dismissed on April 14, 2009, the petition fee is due. The fee has been received.

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

The application was held abandoned for failure to timely respond to the decision on petition mailed on April 14, 2009, which set a two (2) month shortened period for reply.

On July 16, 2009, the subject renewed petition was filed, accompanied by a one (1) month extension of time. As the decision on April 14, 2009, permitted extensions of time under 37

CFR 1.136(a), the renewed petition is timely filed, and the holding of abandonment was premature.

The holding of abandonment is **withdrawn**, and the Notice of Abandonment is **vacated**.

The application is referred to Technology Center 1794 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Gregory J. Koerner
Redwood Patent Law
1291 East Hillsdale Boulevard
Suite 205
Foster City, CA 94404

Mail Date: 05/13/2010

Applicant	: Chinping Yang	: DECISION ON REQUEST FOR
Patent Number	: 7634139	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/802,088	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1093** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JACQUES M. DULIN
INNOVATION LAW GROUP
224 W. WASHINGTON STREET
NETPORT CENTER SUITE 201
SEQUIM, WA 98382

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
Roger V. Maes :
Application No. 10/802,091 :
Filed: March 15, 2004 :
Attorney Docket No. 7216-002CIP US :

DECISION ON PETITION
TO MAKE SPECIAL
37 CFR 1.102(c)

This is a decision on the petition under 37 CFR 1.102(c), filed August 1, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Roger V. Maes attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3724 for expedited prosecution.

Amelia Au
Petitions Examiner
Office of Petitions

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THOMPSON HINE LLP
2000 Courthouse Plaza, N.E.
10 West Second Street
Dayton, OH 45402-1758

Mail Date: 05/24/2010

Applicant	: Robert J. Crist	: DECISION ON REQUEST FOR
Patent Number	: 7658127	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/802,104	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PATRICK T. KING
LAW OFFICES OF PATRICK T. KING
144 HOLM ROAD #39
WATSONVILLE, CA 95076-2427

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of :
Heinz F. Thummel :
Application No. 10/802,115 : ON PETITION
Filed: March 13, 2004 :
Attorney Docket No. LDI006 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to fully reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed June 3, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 4, 2004.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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GUNNISON MCKAY & HODGSON, LLP
GARDEN WEST OFFICE PLAZA, SUITE 220
1900 GARDEN ROAD
MONTEREY CA 93940

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of :
Heinz F. THUMMEL :
Application No. 10/802,115 : DECISION ON PETITION
Filed: March 13, 2004 :
Attorney Docket No. **LDI006** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 03, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 04, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the response to the non-final office action of April 03, 2006 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3641 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,116	03/16/2004	Jefferson G. Shingleton	PWRL 1030-3	3332

22470 7590 07/25/2008

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

EXAMINER	
MOWLA, GOLAM	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
07/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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wk

Mailed: 7-25-08

In re application of	:	
J. G. Shingleton	:	DECISION ON
Serial No. 10/802,116	:	PETITION
Filed: 03/16/2004	:	
For: TRACKING SOLAR COLLECTOR ASSEMBLY	:	

This is a decision on a PETION filed UNDER 37 CFR 1.182 that is being treated as a PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed May 9, 2008, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the IDS documents submitted on May 7, 2008 be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase ''and returned '' from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase ''and return '' from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/802,116

The images will be removed from the Official file.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

James F. Hann
HAYNES BEFFEL & WOLFELD LLP
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HALF MOON BAY CA 94019

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TOWNSEND AND TOWNSEND AND CREW, LLP (018563)
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of :
Timothy N. Jones, et al. :
Application No.10/802,124 :
Filed: March 15, 2004 :
Attorney Docket No. 018563-006010US :

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed January 16, 2007, which is being treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

This application is being forwarded to Technology Center Art Unit 3732 for appropriate action on the amendment submitted January 16, 2007, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
10/802,124	03/15/2004	3732	2402	018563-006010US	94	3

CONFIRMATION NO. 3509

CORRECTED FILING RECEIPT

46718
TOWNSEND AND TOWNSEND AND CREW, LLP (018563)
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000023886416

Date Mailed: 05/16/2007

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)

Timothy N. Jones, Mountain View, CA;
Muhammad Chishti, Washington, DC;
Huafeng Wen, Redwood Shores, CA;
Gregory P. Bala, San Jose, CA;

Assignment For Published Patent Application

Align Technology, Inc., Santa Clara, CA

Power of Attorney: The patent practitioners associated with Customer Number **20350**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/264,547 03/08/1999 PAT 7,063,532
which is a CIP of 09/169,276 10/08/1998 ABN
which is a CIP of PCT/US98/12861 06/19/1998
which is a CIP of 08/947,080 10/08/1997 PAT 5,975,893
which claims benefit of 60/050,342 06/20/1997

Foreign Applications

If Required, Foreign Filing License Granted: 06/02/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/802,124

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SUBDIVIDING A DIGITAL DENTITION MODEL

Preliminary Class

433

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF THE DIRECTOR
TC 3600

EDWARD P. DUTKIEWICZ
640 Douglas Avenue
Dunedin, FL 34698

In re application of
Mike Nick Zembillas
Application No. 10/802,181
Filed: March 17, 2004
For: WASTE WATER VALVE SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on March 17, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of a birth certificate for Mr. Zembillas indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **Granted.**

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 11/01/04

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Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of :
TANAKA :
Application No. 10/802,219 : DECISION ON PETITION
Filed: March 18, 2004 : TO WITHDRAW
Attorney Docket No. 13776 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A 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 Catherine L. Gemrich.

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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HOWARD & HOWARD ATTORNEYS, P.C.
THE PINEHURST OFFICE CENTER, SUITE #101
39400 WOODWARD AVENUE
BLOOMFIELD HILLS, MI 48304-5151

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of :
COOKE :
Application No.: 10/802,275 : DECISION ON PETITION
Filing Date: March 17, 2004 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: DP-303889 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed February 7, 2006, which set a three month shortened statutory period for response. 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 May 8, 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 a Request for Continued Examination (RCE); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action mailed February 7, 2006 is accepted as having been unintentionally delayed.

This application is being referred to Technology Center AU 3752 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED

OCT 07 2009

OFFICE OF PETITIONS

In re Application of :
MICHAEL A.HALTER :
Application No. 10/802,277 : ON APPLICATION FOR
Filed: March 17, 2004 : PATENT TERM ADJUSTMENT
Atty. Docket No. 16990-52545-B :

This is in response to the Communication Regarding Patent Term Adjustment (PTA) Indicated in Notice of Allowance filed April 27, 2009, which is properly treated under 37 CFR 1.705(b). Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand five hundred fifteen (1,515) days, not one thousand one hundred seventy-four (1,174) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant seeks this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

In re Patent No. 7,615,939	:	DECISION ON REQUEST FOR
Halter	:	RECONSIDERATION OF
Issue Date: November 10, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/802,277	:	NOTICE OF INTENT TO ISSUE
Filed: March 17, 2004	:	CERTIFICATE OF CORRECTION
Docket No. 16990-52545-B	:	

This is a decision on the petition filed on December 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand five hundred forty-six (1546) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand five hundred ninety-two (1592) days**.

In the present petition, patentee is correct that there is overlap between the A delay and B delay. However, patentee has calculated the A delay, B delay and the overlapping period incorrectly. The A delay is 1295 (1220 + 75) days. The B delay is 969 days, beginning on March 18, 2007 and ending on November 10, 2009. These periods overlap by 626 days (551 days running from March 18, 2007 to September 18, 2008, and 75 days running from August 28, 2009 to November 10, 2009). Patentee acknowledges applicant delay is 46 days.

Accordingly, the patent term adjustment is 1592 days (1295 days of A delay + 969 days of B delay - 626 days of overlap - 46 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

As stated in the decision of October 7, 2009: "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)**." (Emphasis added). Thus, the Office will charge the Deposit Account for the required fee of $200.00 set forth in 37 CFR 1.18(e) for consideration of the present request for reconsideration of the patent term adjustment.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand five hundred ninety-two (1592) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,615,939 B2

DATED: Nov. 10, 2009 **DRAFT**

INVENTOR(S): Halter

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 1249 days

Delete the phrase "by 1249 days" and insert – by 1592 days--

Day : Tuesday
Date: 4/20/2010

PALM INTRANET

Time: 07:06:42

PTA Calculations for Application: 10/802277			
Application Filing Date:	03/17/2004	PTO Delay (PTO):	1295
Issue Date of Patent:	11/10/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	46
Post-Issue Petitions:	0	Total PTA (days):	1592
PTO Delay Adjustment:	343		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
69	04/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	343		
65.5	10/21/2009	PTA 36 MONTHS			
65	11/10/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	75		57
64	10/15/2009	EXPORT TO FINAL DATA CAPTURE			
63	10/14/2009	DISPATCH TO FDC			
62	10/07/2009	MAIL-PETITION DECISION - DISMISSED			
61	10/07/2009	PETITION DECISION - DISMISSED			
60	04/28/2009	FINISHED INITIAL DATA CAPTURE			
59	04/27/2009	PETITION ENTERED			
58	04/28/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
57	04/27/2009	ISSUE FEE PAYMENT VERIFIED			
56	04/27/2009	ISSUE FEE PAYMENT RECEIVED			
55	04/06/2009	EXPORT TO INITIAL DATA CAPTURE			
54	04/03/2009	MAIL NOTICE OF ALLOWANCE			
53	03/31/2009	ISSUE REVISION COMPLETED			
52	03/31/2009	DOCUMENT VERIFICATION			
51	03/31/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	03/31/2009	CASE DOCKETED TO EXAMINER IN GAU			
49	03/30/2009	NOTICE OF ALLOWABILITY			
45	03/10/2009	DATE FORWARDED TO EXAMINER			
44	02/02/2009	RESPONSE AFTER NON-FINAL ACTION		46	40
43	02/02/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	10/20/2008	CHANGE IN POWER OF ATTORNEY (MAY			

		INCLUDE ASSOCIATE POA)			
41	10/16/2008	CORRESPONDENCE ADDRESS CHANGE			
40	09/18/2008	MAIL NON-FINAL REJECTION	1220		-1
39	09/15/2008	NON-FINAL REJECTION			
38	03/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	03/21/2008	CASE DOCKETED TO EXAMINER IN GAU			
30	03/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
29	03/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
28	01/16/2008	CASE DOCKETED TO EXAMINER IN GAU			
27	12/19/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	08/27/2007	REQUEST FOR CLASSIFICATION DIVISION DECISION			
25	03/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	07/13/2007	TRANSFER INQUIRY TO GAU			
23	06/09/2007	TRANSFER INQUIRY TO GAU			
22	06/09/2007	TRANSFER INQUIRY TO GAU			
21	03/18/2007	TRANSFER INQUIRY TO GAU			
20	12/13/2006	TRANSFER INQUIRY TO GAU			
19	03/17/2005	REFERENCE CAPTURE ON IDS			
16	10/12/2005	TRANSFER INQUIRY TO GAU			
15	05/26/2005	TRANSFER INQUIRY TO GAU			
14	10/01/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	09/09/2004	REFERENCE CAPTURE ON IDS			
12.7	09/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	08/31/2004	APPLICATION RETURN FROM OIPE			
10	08/31/2004	APPLICATION RETURN TO OIPE			
9	08/31/2004	APPLICATION DISPATCHED FROM OIPE			
8	08/31/2004	APPLICATION IS NOW COMPLETE			
7	08/03/2004	ADDITIONAL APPLICATION FILING FEES			
6	08/03/2004	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
5	06/03/2004	CORRECTED PAPER			

4	04/13/2004	CLEARED BY OIPE CSR			
3	04/13/2004	CASE CLASSIFIED BY OIPE			
2	04/02/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/17/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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JUL 22 2004

In re Application of
Angus J. Tocher
Application No. 10/802,291
Filed: March 16, 2004
Attorney Docket No. 5134-2

: DECISION ON PETITION

This is a decision on the petition to make special filed on April 29, 2004. The petition to make special is based upon the development of energy resources, and no petition fee is required.

The petition is granted.

A review of the petition shows that all of the requirements established in MPEP § 708.02(VI) for a petition based upon the development of energy resources have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP § 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3745 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Technology Center 3700

Sheridan Ross PC
1560 Broadway
Suite 1200
Denver, CO 80202

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Paper No. 121504

JAN 6 2005

STEVEN C. SCHNEDLER
CARTER SCHNEDLER & MONTEITH, PA
56 Central Ave., Suite 101
PO Box 2985
Asheville, NC 28802

In re Application of:
Michael T. Kane
Serial No.: 10/802,297
Filed: March 16, 2004
Attorney Docket No.: **ITM-70-DIV**

DECISION ON PETITION TO MAKE APPLICATION SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(d), filed March 16, 2004, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item II: Infringement.

A grantable petition under 37 C.F.R. § 1.102(d), M.P.E.P. § 708.02, Section II, must be accompanied by the required fee pursuant to 37 C.F.R. § 1.17(h) and a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

The petition and accompanying papers are sufficient to satisfy the above-listed requirements for special status.

Accordingly, the petition is **GRANTED**.

The application is being forwarded to the examiner for expedited prosecution.

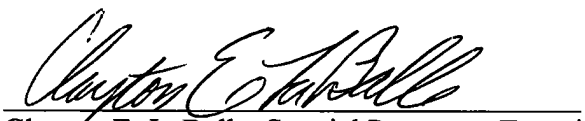
If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 29, 2006

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/802302 Patent No.:7,017,886 B1

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: TRADING SLIGHTLY INFORMAL DRAWINGS FOR FORMAL

Justine Yu — SPE

3751 — Art Unit

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,314	03/17/2004	Van Le Huynh	ECV-5539CON	3894

7590 01/19/2010

EDWARDS LIFESCIENCES LLC
One Edwards Way
Irvine, CA 92614

EXAMINER	
PELLEGRINO, BRIAN E	
ART UNIT	**PAPER NUMBER**
3738	

MAIL DATE	DELIVERY MODE
01/19/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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EDWARDS LIFESCIENCES LLC
One Edwards Way
Irvine CA 92614

In re Application of:
HUYNH, VAN LE et al
Serial No. 10/802,314
Filed: March 17, 2004
Docket: ECV-5539CON
Title: LOW-PROFILE, PIVOTABLE HEART VALVE SEWING RING

DECISION ON PETITION

This is a decision on the petition filed on December 21, 2009. Petitioner is requesting 1) withdrawal the holding of the Petitioner's Appeal Briefs submitted as "Non-Compliant"; and 2) withdrawal holding of abandonment. This petition is being considered pursuant to 37 CFR 1.181. No fee is required under this section.

The petition is DISMISSED.

Background

On July 13, 2009, the Board of Patent Appeals and Interferences (BPAI) found the appeal brief of September 22, 2008 defective. BPAI returned the appeal to the examiner with the notification mailed to the appellant. In particular, BPAI found that independent claims 1 and 11 are not in compliance with 37 CFR § 41.37(c) (v). On page 2 of the appellant's notification letter mailed by BPAI clearly stated the specific requirement of 37 CFR § 41.37(c) (v) so that the appellant may make necessary corrections. On July 20, 2009, the Patent Appeals Center also mailed a Notification of Non-Compliant Appeal Brief to the appellant requesting a corrected appeal brief. Paragraph 10 of the Notification of July 20, 2009 also explains the reasons why the appeal brief was defective. In response, the appellant filed a second supplemental appeal brief on August 21, 2009. However, the corrected appeal brief filed on August 21, 2009 remains defective. The examiner dismissed the appeal in the letter of November 23, 2009 in accordance with MPEP §

1215.04. In the letter to dismiss the appeal, the examiner gave a detailed explanation[1] for holding the second supplemental appeal brief of August 21, 2009 defective. Since the appeal was dismissed, the application was held abandoned. In response, on December 21, 2009, the appellant submitted a third supplemental appeal brief with the necessary corrections. On the same day, the appellant filed this petition for review by the TC Director under 37 CFR 1.181.

In the petition, petitioner requests the Director to a) overrule the holding of non-compliance dated November 23, 2009, or b) accept the filing of the third supplemental appeal brief correcting the deficiencies noted. Petitioner argues that in the July 20, 2009 Notice of Non-Compliance, Deborah L. Perry the Supervisory Paralegal Specialist failed to mention any substantive deficiency. Therefore, the August 21, 2009 second supplemental appeal brief fails correct the deficiency. Petitioner opines that there was a bona fide attempt made to address the deficiencies noted by replacing the published paragraph references with the corresponding page/line number references. That would appear to be a complete response based on the July 20, 2009 Notice of Non-Compliance. However, in the November 23, 2009 letter, the examiner requests further substance as to the claim element references. Therefore, petitioner now requests the examiner to accept the previously submitted second supplemental appeal brief of August 21, 2009 because petitioner believes the cited deficiencies were corrected by the second supplemental appeal brief. Specifically, Supervisory Paralegal Specialist Perry only enumerated technical deficiencies, nothing of substance. In the alternative, petitioner request the examiner to accept the third supplemental appeal brief which adds further references to the specification and drawings for claim elements in the independent claims.

Discussion and Decision

A review of the examination history shows that the appellant submitted appeal briefs after each response of a defective appeal brief, but failed to correct the brief with claims 1 and11 being identified as claims involved in the appeal. In the letter from BPAI of July 13, 2009 and the defective appeal brief notice of July 20, 2009, it was clearly explained why the appeal brief of September 22, 2008 was defective and what needs to be corrected. There is absolutely no substantive correction required. The requirement of 37 CFR § 41.37(c) (v) is strictly a formality requirement. Therefore, petitioner's arguments regarding substantive deficiency is not persuasive. Based on the record, the dismissal of appeal was due to the appellant's failure to make the formality corrections as required by the BPAI. With no claims allowed from the

[1] A Non-compliant brief notice was sent out on 7/20/09 requiring Applicant to refer to claim limitations as explained in 37 CFR 41.37(c) (1) (v). The summary of claimed subject matter is to include a clear explanation of where claimed features and functions are set forth in the disclosure with reference to the specification by page and line number, and to the drawings by "reference characters" as the application has drawings showing features that are claimed and where they are referenced. Applicant submits a response reciting the claim limitations and in a separate paragraph lists a few figures and pages with lines of the specification "separately" from the claim limitations leaving it vague and unclear as to exactly what defines the specific limitations of the claims. Again, as the MPEP states for this section of the brief, the Applicant must provide "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c) (1) (vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

application or any of the appeal briefs, the application was abandoned in accordance with MPEP § 1215.04.

With regard to the third supplemental appeal brief, while the appellant did present figure numbers to show two bi-stable positions, the appellant still failed to show or reveal where the limitation of "configured to pivot between bi-stable positions" is defined or explained in the specification so it can be understood by the Board as required by 37 CFR 41.37[2]. In particular, the appellant still failed to refer the claimed "configured to pivot between bi-stable positions" by specification page and line number. Therefore, the third supplemental appeal brief remains defective. The requested relief to accept the third supplemental appeal brief filed on December 21, 2009 cannot be granted.

Conclusion

For the reasons stated above, the latest revised appeal brief filed on December 21, 2009 still remains defective. The holding of abandonment in accordance with MPEP 1215.04 is deemed proper. The relief requested cannot be granted.

PETITION DISMISSED.

Any request for reconsideration should include a cover letter entitled "Renewed Petition under 37 CFR 1.181" and must be submitted within TWO (2) MONTHS from the mail date of this decision. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings (37 CFR 1.181(f)). No extension of time under 37 CFR 1.136(a) is permitted. A petition to revive under 37 CFR § 1.137, including the required fee and a compliant brief, should be separately filed and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

Any inquiry regarding this decision should be directed to Henry Yuen, Special programs Examiner at (571) 272-4856.

Donald T. Hajec, Director
Technology Center 3700

[2] 37 CFR 41.37 states the following: (v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph c(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. § 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function by page and line number, and to the drawing, if any, by reference numbers.

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.
10/802,314	03/17/2004	Van Le Huynh	ECV-5539CON	3894

7590 03/18/2010

EDWARDS LIFESCIENCES LLC
One Edwards Way
Irvine, CA 92614

EXAMINER	
PELLEGRINO, BRIAN E	

ART UNIT	PAPER NUMBER
3738	

MAIL DATE	DELIVERY MODE
03/18/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARDS LIFESCIENCES LLC
One Edwards Way
Irvine CA 92614

In re Application of:
HUYNH, VAN LE et al
Serial No.: 10/802,314
Filed: March 17, 2004
Docket: ECV-5539CON
Title: LOW-PROFILE, PIVOTABLE HEART VALVE SEWING RING

DECISION ON PETITION

This is a decision on the renewed petition filed on February 22, 2010 by which petitioner requests to a) overrule the holding of non-compliance dated November 23, 2009, which included a holding of abandonment and dismissal of Appeal, and b) accept the attached fourth supplemental appeal brief correcting the deficiencies noted. This petition is considered to accept the appeal brief filed on February 22, 2010 pursuant to 37 CFR § 1.181, and no fee is required.

The petition is **GRANTED IN PART**.

The relevant records lead to the dismissal of the last petition filed on December 21, 2009 have been clearly stated in the background of the decision mailed on January 19, 2010 and will not be repeated again.

Discussion and Analysis

In the renewed petition of February 22, 2010, petitioner argues in essence that the previous filed second and third supplemental Briefs of August 21, 2009 and December 21, 2009 were fully responsive to the notifications of non-complaint appeal brief. Petitioner faulted the examiner for not earlier recognizing the brief was non-compliant and requesting additional changes such that the second and the third supplemental briefs there were filed would not be non-compliant if the applicant presented a proper brief. Petitioner further argues that the examiner has approved of the Claim Summary section in his examiner's answer of January 6, 2009. Petitioner objects to the unfairness of suddenly holding the application abandoned when a bona fide attempt was made to correct the deficiencies in the notifications of non-complaint appeal brief. Petitioner also objects to the examiner making that decision seemingly contrary to his earlier finding that the Appeal Brief was compliant. Finally, petitioner objects there was lack of opportunity to respond to those additional noted deficiencies in the second and third supplemental appeal briefs.

A review of entire relevant file history shows the examiner accepted the corrected appeal brief of October 24, 2008 without further objection. An examiner's answer was written on January 6, 2009. However, on July 13, 2009, the Board of Patent Appeals and Interferences (BPAI) found the appeal brief of September 22, 2008 was defective. In particular, BPAI found that

independent claims 1 and 11 are not in compliance with 37 CFR § 41.37(c) (v). On page 2 of the appellant's notification letter mailed by BPAI clearly stated the specific requirement of 37 CFR § 41.37(c) (v) so that the appellant may make necessary corrections. On July 20, 2009, the Patent Appeals Center also mailed a Notification of Non-Compliant Appeal Brief to the appellant requesting a corrected appeal brief. Paragraph 10 of the Notification of July 20, 2009 also explains the reasons why the appeal brief was defective. The notifications sent by the BPAI and the Patent Appeals Center were very clear as to what the deficiencies were. There is no ambiguity found in the notifications. In response, the appellant filed the second and third supplemental appeal briefs on Augusts 21, 2009 and December 21, 2009, respectively. Unfortunately, the second and third supplemental appeal briefs remain defective as explained in the previous decision mailed on January 19, 2010. It can not be said that there was lack of opportunity to respond and correct the noted deficiencies in the second and third supplemental appeal briefs. The BPAI has already explained why the appeal brief of September 22, 2008 was deficient. Under the circumstances, the holding of non-complaint appeal brief notification mailed on November 23, 2009 was proper and will not be withdrawn.

In the renewed petition, petitioner also argues that the appeal brief as filed on February 22, 2010 does comply with 37 CFR § 41.37. A review of the latest appeal brief accompanying the current renewed petition filed on February 22, 2010 indicates that the defects noted by the BPAI have been remedied. In particular, the fourth supplemental appeal brief does refer the subject matter defined in the claims to the specification by page and line number, and to the drawing, if any, by reference characters as required by 37 CFR 41.37(c)(1)(vii). The latest fourth supplemental appeal brief of February 22, 2010 has corrected the deficiencies noted by the BPAI. The latest fourth supplemental appeal brief is now in compliance with MPEP § 1205.02 and therefore is acceptable. The request to accept the fourth supplemental appeal brief filed on February 22, 2010 is granted.

In the renewed petition, petitioner requests that the dismissal of appeal and abandonment of the application mailed on November 23, 2009 be withdrawn. However, the holding of abandonment of the application was found proper in accordance with MPEP 1215.04 as clearly explained in the previous decision mailed on January 19, 2010. The request to withdraw the abandonment will not be granted under 37 CFR 1.181.

Conclusion

The latest appeal brief of February 22, 2010 is found in compliance with 37 CFR § 41.37(c) (v). The request to accept the fourth supplemental appeal brief of February 22, 2010 is granted. The request to withdraw abandonment is denied for failure to timely submit a corrected appeal brief as required by the BPAI the Patent Appeals Center. The application remains in abandoned status in accordance with MPEP § 1215.04.

In order to re-instate the appeal, petitioner must file a separate petition to revive the application with the Petitions Office. No extension of time under 37 CFR 1.136(a) is permitted. A petition to revive under 37 CFR § 1.137, including the required fee should be separately filed and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition,

Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02.

The petition to accept the appeal brief of February 22, 2010 is granted.
The petition to withdraw the holding of abandonment is denied.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

Donald T. Hajec, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARDS LIFESCIENCES LLC
ONE EDWARDS WAY
IRVINE CA 92614

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of :
Van Le HUYNH, et al :
Application No. 10/802,314 : DECISION ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. ECV-5539CON :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed July 20, 2009, a one month extension 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 on September 21, 2009. *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 a Supplemental Appeal Brief, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center 3738 for appropriate action by the Examiner in the normal course of business.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 11, 2007

TO SPE OF : ART UNIT 2831

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/802320 Patent No.: 7,057,111 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

Jean A. Bruchard — SPE

2831 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JUL 28 2004

In re Application of	:	
Billy H. Brenton	:	
Serial No. 10/802,322	:	DECISION ON PETITION
Filed: March 16, 2004	:	TO MAKE SPECIAL
For: ADJUSTABLE THUMB RINGLET: FOR PIVOTED CUTTING INSTRUMENTS	:	

Applicant's petition, filed April 16, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Samuel M. Freund
Cochran Freund & Young, LLC
3555 Stanford Road, Suite 230
Fort Collins, CO 80525

UNITED STATES PATENT AND TRADEMARK OFFICE

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Cochran Freund & Young LLC
2026 Caribou Drive
Suite 201
Fort Collins, CO 80525

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Billy H. Brenton	:	
Application No. 10/802,322	:	DECISION ON PETITION
Filed: March 16, 2004	:	TO WITHDRAW
Attorney Docket No. BRER.01US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Cochran Freund & Young LLC has been revoked by the assignee of the patent application on July 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Kenneth L. Tolar**
2908 Hessmer Avenue
Metairie, LA 70002

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of :
Wong :
Application No. 10/802,331 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 10559-586002 :
For: ELECTRON-BEAM TREATED CDO FILMS

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006 (certificate of mailing date May 2, 2006), to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers, mailed June 4, 2004, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on February 16, 2005.

Applicant has submitted a proper reply in the form of replacement drawings, an acceptable statement of the unintentional nature of the delay in responding to the June 4, 2004 Notice, and the petition fee.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being 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 petition.

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

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

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OCT 2 4 2008

OFFICE OF PETITIONS

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

In re Application of :

SHANLEY, Laurence M. :
Application No. 10/802,354 : DECISION ON PETITION
Filed: March 16, 2004 : TO WITHDRAW
Attorney Docket No. **3618** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 29, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Werner Stemer on behalf of all attorneys of record who are associated with customer No. 24131. All attorneys/agents associated with the Customer Number 24131 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Laurence Shanley at the address indicated below. There is an outstanding Office action mailed June 25, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **LAURENCE M. SHANLEY**
662 N.E. 195TH STREET
NORTH MIAMI BEACH FL 33179

UNITED STATES 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 11 2005

Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

In re application of Benjamin silberstein, et al. Application No. 10/802,359 Filed: March 16, 2004 For: METHOD FOR SELLING JEWELRY WITH STONES FROM A SINGLE SOURCE	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed May 20, 2005 to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 20, 2005 lacks requirement 2(C), above.

Regarding item 2(C), there is no record in the application of applicant submitting a copy of the references deemed most closely related to the subject matter encompassed by the claims.

In view of this deficiency, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

SUMMARY: Petition to Make Special **DISMISSED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 7/29/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV - 9 2005

Stephen E. Feldman, P.C.
12 East 41st Street
New York, NY 10017

In re application of	:	**DECISION ON PETITION**
Benjamin Silberstein et al.	:	**TO MAKE SPECIAL**
Application No. 10/802,359	:	**(INFRINGEMENT)**
Filed: March 16, 2004	:	
For: METHOD FOR SELLING JEWELRY WITH STONES FROM A SINGLE SOURCE	:	

This is a decision on the renewed petition under 37 C.F.R § 1.102(d) filed October 24, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed October 24, 2005 now meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
571-272-6587

KJD/dew: 10/31/05

Pet. Dec.

OIPE JC86 OCT 04 2004 PATENT & TRADEMARK OFFICE

PTO/SB/83 (09-03)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	10/802,365
Filing Date	March 16, 2004
First Named Inventor	Dov Z. GLUCKSMAN
Art Unit	Not Yet Assigned
Examiner Name	Not Yet Assigned
Attorney Docket Number	514332001410

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

[X] all the attorneys/agents of record.

[ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or

[ ] the attorneys/agents associated with Customer Number [ ]

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:
This request is being made at the request of Bonjour, Incorporated

Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700
2/14/05

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [X] Change the correspondence address and direct all future correspondence to:

[ ] Customer Number: [ ]

OR

[X] Firm or Individual Name	Alan Hodes (Beyer Weaver & Thomas, LLP)				
Address	590 W. El Camino Real				
City	Mountain View	State	California	Zip	94040
Country					
Telephone	(650) 961-8300		Fax	(650) 961-8301	
Name	Thomas E. Ciotti				
Signature	Thomas E. Ciotti		Registration No.	21,013	
Date	September 30, 2004		Telephone No.	(650) 813-5702	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: September 30 2004 Signature: _____ (Thao T. Pham)

pa-922253

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 7, 2010

TO SPE OF : ART UNIT 3634 - SPE Katherine W. Mitchell

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/802,385 Patent No.: 7,357,171 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should FIGS 1-3 be substituted with FIGS. 1-3 as requested by applicant?
See COCIN dated 05-18-2010 and DRW dated 10-16-2006

_____
Certificates of Correction Branch
(571)272-0483

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.

Comment [B1]:

Comments: Denied. There appears to be only 5 sheets of drawings and they are not labeled "sheet 4 or 5", etc. The drawing figs. 1-3 themselves are acceptable.

Blair Johnson AU 3634

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/BMJ/ 6/8/10

/Katherine W Mitchell/ 3634

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100713

DATE : July 13, 2010

TO SPE OF : ART UNIT 3634

SUBJECT : Request for Certificate of Correction on Patent No.: 7357171

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:

THIS IS FOR THE COC FILED 10/14/2009 CONCERNING CLAIM 1.

SPE: Katherine W. Mitchell **Art Unit** 3634

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
10/802,388	03/17/2004	2644	0.00	9372-5	7	36	7

CONFIRMATION NO. 3689

20792
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

CORRECTED FILING RECEIPT

OC000000013263035

Date Mailed: 07/16/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Walter C. Hernandez, Potomac, MD;
Mathieu Kemp, Durham, NC;
Frederick R. Vosburgh, Durham, NC;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/455,745 03/19/2003
and claims benefit of 60/478,118 06/12/2003

Foreign Applications

If Required, Foreign Filing License Granted: 06/03/2004

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Sound canceling systems and methods

Preliminary Class

381

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

COPY MAILED

SEP 22 2006

OFFICE OF PETITIONS

In re Application of :
William R. Barclay :
Application No. 10/802,392 : DECISION GRANTING PETITION
Filed: March 4, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2997-4-1-1-2-1 :

This is a decision on the petition, filed September 21, 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 should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1651 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\Sept9\802392.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
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Alexandria, VA 22313-1450
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FEB 10 2005

OFFICE OF PETITIONS

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

In re Application of :
Robert Juzwiak :
Application No. 10/802,399 : DECISION REFUSING STATUS
Filed: March 15, 2004 : UNDER 37 CFR 1.47(b)
Attorney Docket No. TRM TR010036CON :

This is in response to the petition filed November 19, 2004, improperly under 37 CFR 1.53(b), but properly treated under 37 CFR 1.47(b).

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 on March 17, 2004 without an executed oath or declaration.

Accordingly, on June 4, 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, the present petition was filed, accompanied by the late filing surcharge and a four (4) month extension of time.

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) and (3).

As to item (2), a review of the file does not reveal that an oath or declaration has been submitted and therefore, an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. 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, as well as his/her mailing address, residence, if the applicant lives at a different location from where he or she customarily receives mail, as well as the citizenship of individual signing on behalf of the non-signing inventor. 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]

As to item (3), a credit card payment in the amount of $2450.00 covered the filing fees, late filing surcharge and the extension of time fee but did not cover the petition fee. However, pursuant to the authorization in the petition, the petition fee in the amount of $200.00 will be charged to Deposit Account No. 50-2121.

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

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P.O. Box 1450
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JEFFREY L. BRANDT
c/o PORTFOLIO IP
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OCT 19 2004

OFFICE OF PETITIONS

In re Application of :
Caminiti et al. : NOTICE
Application No. 10/802,405 :
Filed: March 17, 2004 :
Attorney Docket No. 1137UA00USC1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed October 4, 2004.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted**.

The change of status to a large entity has been entered and made of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 05/04/2010

Applicant	: Rami Vaittinen	: DECISION ON REQUEST FOR
Patent Number	: 7613169	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/802,407	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1580** 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.

10/802,430

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 24, 2005 FOR 7-27-05 Request

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction on Patent No.: 6,906,857

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.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All chánges apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Changes appear to all be corrections of typographical errors.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER

SPE 2872 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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CESARI AND MCKENNA
88 BLACK FALCON AVENUE
BOSTON MA 02210

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JUN 16 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael L. Fowler et al :
Application No. 10/802,436 :
Filed: March 16, 2004 :
Attorney Docket No. 112055-078U :

This is a decision on the petition, filed June 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 April 12, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2841 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
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PATENT DEPARTMENT
MITSUBISHI ELECTRIC RESEARCH LABORATORIES INC
201 BROADWAY
CAMBRIDGE MA 02139

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AUG 1 8 2006
OFFICE OF PETITIONS

In re Application of
Perry, et al. :
Application No. 10/802,443 : DECISION ON
Filed: March 16, 2004 : PETITION
Attorney Docket No. MERL-1549 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 9, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely submit formal drawings as required by the Notice of Allowability mailed on June 13, 2005. This notice set a non-extendable period for reply of three months. No corrected drawings having been received, the above-identified application became abandoned on September 14, 2005. A Notice of Abandonment was mailed on December 30, 2005.

With the instant petition, petition paid the petition fee, submitted formal drawings, and made the proper statement of unintentional delay.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,455	03/17/2004	Manfred Heisler	WAS 0627 PUS	4002

22045 7590 09/21/2009

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER
SORKIN, DAVID L

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
09/21/2009	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

bc

Mailed: 9/21/09

In re application of :
Heisler et al. : DECISION ON
Serial No. 10/802,455 : PETITION
Filed: March 17, 2004 :
For: PROCESS FOR THE CONTINUOUS PREPARATION OF HIGH-VISCOSITY SILICONE COMPOSITIONS

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed August 5, 2009, which was timely filed on August 14, 2009.

A Request for Continued Examination (RCE) was filed in the instant application on July 30, 2009. A Declaration under Rule 132 and a Declaration under Rule 131 were also filed at the same time. The examiner prepared a first action final which was mailed on August 5, 2009.

DECISION

The standard for making an Office action final is set forth in section 706.07(b) of the MPEP which states:

> 706.07(b) Final Rejection, When Proper on First Action
> The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

In this case, the first criteria is met by the filing of a continuing application on July 30, 2009. Turning to the second criteria, it is noted that no amendments were filed with the RCE filing. Accordingly, the first part of the second criteria is met. The final Office action of August 5, 2009 maintained the claim rejection set forth in the previous Office action of May 7, 2009. Thus, the second part of the second criteria is also met.

The petition alleges that the final Office action failed to take note of Applicants' arguments or answer the substance of the Applicants' arguments. This is not persuasive, as page 7 (paragraphs 4 and 5) of the final Office action clearly set forth the reasoning as to why the Declaration were unsatisfactory. The further argument that MPEP 706.07(b) prohibits a final first Office action in an RCE where the application contains material which was presented in the earlier application after final rejection but was denied entry because new issues were raised that required further consideration and/or search is not persuasive, because the Declarations, while filed after the final Office action in the earlier application, were not denied entry.

The final Office action of August 5, 2009 is deemed to be proper. Accordingly, the Petition is **DENIED**.

Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

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DEC 27 2006

OFFICE OF PETITIONS

In re Application of :
Yougandh Chitre et al :
Application No. 10/802,462 : DECISION GRANTING PETITION
Filed: March 16, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. A04P1025 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2006, 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 August 16, 2006, as required by the Notice of Allowance and Fee(s) Due mailed May 16, 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 $1,400 issue fee; (2) the $1,500 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) 272-3218.

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Izumi Nagai	: DECISION ON REQUEST FOR
Patent Number	: 7593947	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/802,471	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **593** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MACMILLAN SOBANSKI & TODD, LLC
ONE MARITIME PLAZA FOURTH FLOOR
720 WATER STREET
TOLEDO, OH 43604-1619

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Reinhard Burk, et. al. :
Application No. 10/802,487 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. 16476 :

This is a decision on the petition under 37 CFR 1.137(b), filed on November 9, 2005, 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 March 28, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The Office acknowledges receipt of $300 for payment of the publication fee submitted on April 15, 2005.

In view of the above, the petition is **GRANTED**.

This application is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIS WRIGHT TREMAINE, LLP/Seattle
1201 Third Avenue, Suite 2200
SEATTLE WA 98101-3045

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SEP 26 2008

In re Application of	:	
Arun K. Chatterjee, et al.	:	
Application No. 10/802,492	:	ON PETITION
Filed: March 16, 2004	:	
Attorney Docket No. 83531-151	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 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 April 24, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 25, 2007. The Notice of Abandonment was mailed November 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that prima facie place the application in condition for allowance; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2617 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-8-08

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/802445 Patent No.: 7247206

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.

Should COC be approved

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

E Yamb

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: all entered "except" --5,552,012 9/1996 Morrisetal -- and -- DE 197 16 416 4/1997"

Note: These references do not appear to have been considered by applicant

Nadine Norton NN — SPE

1792 — Art Unit

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Danita Maseles, Esquire
Schlumberger Technology Corporation
Suite 1700
5599 San Felipe
Houston TX 77056-2722

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of
Veeningen et al.
Application No. 10/802,507
Filed: March 17, 2004
Attorney Docket Number: 94.0075

ON PETITION

This is a decision on the petition filed June 12, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed February 27, 2007. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on May 28, 2007. A Notice of Abandonment was mailed on June 20, 2007.

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 Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ALEXANDRIA VA 22313-1404

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JAN 28 2010

In re Application of :
Morten Middelfart :
Application No. 10/802,509 : NOTICE
Filed: March 17, 2004 :
Atty Docket No. 1032927-000071 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of
Lajos Hegedus, et al.
Application No. 10/802,528
Filed: March 17, 2004
Attorney Docket No. 13370/53303

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 7, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 3, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed August 1, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 4, 2008. On November 7, 2008, using a Certificate of Mailing or Transmission under 37 CFR 1.8(a) dated November 4, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on November 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 the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SEP 17 2009

OFFICE OF PETITIONS

King & Spalding, LLP
P.O. Box 889
Belmont, CA 94002-0889

In re Application of	:	
Jonathan Bingham et al.	:	
Application No. 10/802,530	:	DECISION ON PETITION
Filed: March 17, 2004	:	TO WITHDRAW
Attorney Docket No. 37087-8005.US01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 30, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Judy M. Mohr on behalf of all attorneys/agents associated with customer number 79975. All attorneys/agents associated with customer number 79975 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jivan Biologics, Inc.
733 Allston Way
Berkeley, CA 94710

cc: Jivan Biologics
c/o Subha Srinivasan
700 Larkspur Landing Cir.
Larkspur, CA 94939

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/802,530	03/17/2004	Jonathan Bingham	37087-8005.US01

CONFIRMATION NO. 3519

POWER OF ATTORNEY NOTICE

79975
King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

OC000000037843594

Date Mailed: 09/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/30/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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AUG 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HUFFMAN LAW GROUP, P.C.
1832 N. CASCADE AVE.
COLORADO SPRINGS CO 80907-7449

In re Application of :
Asif Khan, et al. :
Application No. 10/802,532 : DECISION ON PETITION
Filed: April 19, 2004 : TO MAKE SPECIAL
For: **SHARED INPUT/OUTPUT LOAD-STORE ARCHITECTURE** :

This is a decision on the petition filed October 21, 2004 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition fails to fully meet requirements (4), (5) and (6) inasmuch as there is no detailed discussion of a search having been performed for the instant application. Rather, applicant states that the copy of the search report and accompanying prior art is for a different application. Specifically, petitioner states that the instant application "contains a similar specification differing in aspects of the disclosed invention which is claimed". Therefore, it is not readily apparent that the claims of the instant application were searched and/or that the prior art supplied is that which is most closely related to the subject matter of ***this application***.

Accordingly, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete discussion of the search method employed for this application in order to comply with item (4) above. Furthermore, copies of the references most closely related to the claims of this application must be provided and discussed as per items (5) and (6) above.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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MAY 30 2008

OFFICE OF PETITIONS

MILLER CANFIELD PADDOCK AND STONE, PLC
277 SOUTH ROSE STREET, SUITE 5000
KALAMAZOO, MI 49007

In re Application of :
Blake Pepinsky et al :
Application No. 10/802,540 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. BII-008.02

This is a decision on the petition, filed May 29, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 10, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1647 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Harold H. Fox
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1795

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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Perkins Coie LLP
P.O. Box 1208
Seattle, WA 98111-1208

Mail Date: 05/07/2010

Applicant	: Konstantinos Roussos	: DECISION ON REQUEST FOR
Patent Number	: 7657617	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/802,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of :
Michael S. Hemenway :
Application No. 10/802,556 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. 14575.1US01 :

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 submit the publication fee in a timely manner in reply to the Notice of Allowance mailed November 5, 2004, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 6, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition and publication fees; 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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT ADMINISTRATOR
NEAL, GERBER & EISENBER
SUITE 1700
2 NORTH LASALLE STREET
CHICAGO, IL 60602

MAILED

JUL 08 2010

OFFICE OF PETITIONS

In re Application of :
Tracy Alan Metzger :
Application No. 10/802,558 : DECISION ON PETITION
Filed: March 17, 2004 : TO WITHDRAW
Attorney Docket No. 18474.01US2 : 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 22, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Neal, Gerber & Eisenberg has been revoked by the assignee of the patent application on June 9, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of :
Michihiko Sasaki :
Application No. 10/802,575 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 393032044000 :

This is a decision on the petition, filed June 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 May 30, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2837 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of	:	
Cho, et al.	:	
Application No. 10/802,615	:	DECISION GRANTING
Filed: July 21, 2004	:	PETITION
Attorney Docket No. 27763-703.301	:	

This is a decision on the petition filed November 2, 2004, to accord the above-identified application a filing date of March 16, 2004.

On March 16, 2004, the application was deposited.

On June 2, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of the missing items. On July 21, 2004, petitioners submitted, *inter alia*, 11 sheets of drawings and a statement that the drawings were part of parent application no. 10/038,197, filed November 9, 2001, which was incorporated by reference in the above-identified application upon filing.

The Office processed the drawings and accorded a filing date of July 21, 2004 to the application.

In response, the present petition alleges that Utility Patent Application Transmittal sheet and a preliminary amendment incorporated by reference the entire disclosure of the parent application. The petition states that the drawings in the parent and continuation are identical. Petitioners request the application, including the 11 sheets of drawings submitted on July 21, 2004, be accorded a filing date of March 16, 2004.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on March 16, 2004, albeit in the file of another application, i.e., application No. 10/038,197. Therefore, on petition, the application may be accorded the requested filing date of March 16, 2004. A petition was required to accord the application the requested filing date. Therefore, deposit account no. 23-2415 will be charged a $130.00 petition fee.

In view of the above, the petition is **granted**. The copy of the drawings submitted on July 21, 2004 will be used for examination purposes .[1]

---

[1] The Office assumes that the drawings are a true and exact copy of the drawings filed in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant drawings to the drawings in the parent application in order to verify that the drawings are, in fact, present in the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 16, 2004, using the application papers filed on March 16, 2004 and the copy of the drawings filed on July 21, 2004.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Polster, Lieder, Woodruff & Lucchesi, L.C.
12412 Powerscourt Dr. Suite 200
St. Louis, MO 63131-3615

Mail Date: 04/21/2010

Applicant	: James F. Conway	: DECISION ON REQUEST FOR
Patent Number	: 7597296	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/802,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Richard S. Roberts
Attorneys at Law
Roberts & Roberts, L.L.P.
P.O. Box 484
Princeton, NJ 08542-0484

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JUN 15 2004

OFFICE OF PETITIONS

In re Application of :
Wallace, et al. :
Application No. 10/802,655 : DECISION GRANTING PETITION
Filed: March 16, 2004 :
Attorney Docket No. L3-032-2004-01 :

This is a decision on the petition filed May 10, 2004, under 37 CFR 1.10(d) requesting that the above-cited application be accorded a filing date of March 16, 2004.

Petitioner alleges that the application was deposited with the United States Postal Service, Express Mail Service on March 16, 2004, but that the United Postal Service failed to properly process the application contained in Express Mail Package ET116732213US until March 18, 2004. The evidence is convincing that the application papers were deposited with the United States Postal Service Express Mail Service on March 16, 2004.

In view of the above, the petition is granted. The new filing date for the above-cited application is March 16, 2004.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 16, 2004, and for issuance of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703)305-0010

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Robert Dant	: DECISION ON REQUEST FOR
Patent Number	: 7584197	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/802,661	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1218** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

Mail Date: 05/18/2010

Applicant : Robert Dant
Patent Number : 7584197
Issue Date : 09/01/2009
Application No: 10/802,661
Filed : 03/17/2004

: 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 **1223** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. None

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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SEP 0 7 2004
OFFICE OF PETITIONS

In re Application of
Shawn D. Rogers and William E. McKinzie
Application No. 10/802,664
Filed: March 17, 2004
Attorney Docket No. 10599/130
Title: CIRCUIT AND METHOD FOR ENHANCED LOW FREQUENCY SWITCHING NOISE SUPPRESSION IN MULTILAYER PRINTED CIRCUIT BOARDS USING A CHIP CAPACITOR LATTICE

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.

Petitioner entitled his petition "Petition under 37 C.F.R. §1.47(b) to accept application where all inventors are unavailable," included a declaration which has been signed by Mr. Rogers, and mentions only the attempts which were made to locate Mr. McKinzie. As such, it appears that this header was entered in error, and Petitioner intended to file a petition under 37 C.F.R. §1.47(a).

---

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.

On March 17, 2004, the application was deposited without an oath or declaration, identifying Shawn D. Rogers and William E. McKinzie as joint inventors. On June 2, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring a fully executed oath or declaration in compliance with 37 C.F.R. §1.63 and the surcharge associated with the late submission of the same. The notice also indicated that the filing fee and additional claim fees were required. This Notice set a two-month period for reply.

With the instant petition, Petitioner has submitted the petition and filing fees, the surcharge, the additional claim fee, a statement of facts, and a copy of 2 facsimile transmissions which were sent from the non-signing inventor's attorney.

Petitioner has met requirements (1) – (2) and (4) above.

Regarding the third requirement, petitioner has failed to include a statement of the last known address of the non-signing inventor[2].

Regarding the fifth requirement, the declaration is not in compliance with 37 C.F.R. §§1.63 and 1.64. First, the declaration must state the relationship of the person, making the oath or declaration, to the inventor, and upon information and belief, the facts which the inventor is required to state. Where the oath or declaration is being signed on behalf of an assignee, see MPEP 324[3]. Where a corporation is the 47(b) applicant, an officer thereof should normally sign the necessary oath or declaration. Regardless, the title or position of the person signing must be stated. Although David T. Auckland has executed the declaration on behalf of the non-signing inventor and has listed his title as "Chief Technical Officer," Mr. Auckland has not listed the name of the corporation which he is an officer of.

Secondly, 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 non-signing inventor.

For these reasons, the petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C §704.

The renewed petition should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner.

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

---

2 See MPEP 409.03(e).
3 409.03(b).

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[4], hand-delivery[5], or facsimile[6].

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011. 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

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

6 (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned, which could be as much as one month.

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of :
Shawn D. Rogers and William E. McKinzie :
Application No. 10/802,664 :
Filed: March 17, 2004 :
Attorney Docket No. 10599/130 :
Title: CIRCUIT AND METHOD FOR ENHANCED LOW FREQUENCY SWITCHING NOISE SUPPRESSION IN MULTILAYER PRINTED CIRCUIT BOARDS USING A CHIP CAPACITOR LATTICE :

DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(A)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed October 12, 2004.

On March 17, 2004, the application was deposited without an oath or declaration, identifying Shawn D. Rogers and William E. McKinzie as joint inventors. On June 2, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), requiring a fully executed oath or declaration in compliance with 37 C.F.R. §1.63 and

[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 surcharge associated with the late submission of the same. The notice also indicated that the filing fee and additional claim fees were required. This Notice set a two-month period for reply.

The original petition was dismissed via the mailing of a decision on September 7, 2004, for failure to submit a declaration which complies with 37 CFR §1.63. The decision erroneously set forth that the last known address was not listed in the original petition. The Office regrets this error.

With the renewed petition, Petitioner has corrected the deficiencies with the declaration by the submission of a new declaration which has been deemed to be acceptable. As such, the petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(a), 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 application will be forwarded to Technology Center 2800 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HUNTON & WILLIAMS LLP / SYMANTEC CORPORATION
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, NW
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Sourabh Satish	: DECISION ON REQUEST FOR
Patent Number	: 7620983	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/802,672	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **880** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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FEB 27 2006

OFFICE OF PETITIONS

In re Application of :
Hiroaki Nasu, et al. :
Application No. 10/802,719 : ON PETITION
Filed: March 18, 2004 :
Attorney Docket No.: Q80238 :

This is a decision on the petition, filed February 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 6, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2879 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

012907

Paper No.: _____

DATE : 2/4/06 7/24/06

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/802728 Patent No.: 6980364B2

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: The applicant is renumbering the claims as per the original filing.

~~**Gregory J. Toatley, Jr.**~~
Supervisory Patent Examiner

SPE

2877
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

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FEB 06 2008

OFFICE OF PETITIONS

In re Application of :
Kyeong Jin Kim, et al. :
Application No.: 10/802,772 : ON PETITION
Filed: March 18, 2004 :
Attorney Docket No.: 054358-5025 :

This is a decision on the petition, filed February 4, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 23, 2008, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2871 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).

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

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OCT 15 2007
OFFICE OF PETITIONS

In re Application of	:	
Koji Maruyama et al	:	
Application No. 10/802,784	:	DECISION GRANTING PETITION
Filed: March 18, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 249958US2S DIV	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 12, 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 27, 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 2621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Hideo ANDO, et al. :
Application No. 10/802,827 : DECISION ON PETITION
Filed: March 18, 2004 : TO MAKE SPECIAL
For: **INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS, AND INFORMATION PLAYBACK METHOD AND APPARATUS** :

This is a decision on the petition filed November 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT 377/AP6A
ABBOTT PARK IL 60064-6008

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APR 02 2007

OFFICE OF PETITIONS

In re Application of :
Kempf, et al. :
Application No. 10/802,829 : DECISION ON PETITION
Filed: March 18, 2004 :
Attorney Docket No. 7050.US.02 :

This is a decision on the petition under 37 CFR 1.53, filed February 27, 2007, to accord the above-identified application a filing date of March 18, 2004, with 6 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on March 18, 2004. However, on June 1, 2004, the Initial Patent Examination Division mailed Applicants a "Notice of Incomplete NonProvisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, Applicants filed the instant petition. Applicants maintain that the application as originally filed included 6 pages of drawings. In support thereof, applicants submitted a

postcard receipt identifying this application, itemizing "Drawings (6 Pages)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of March 18, 2004, and lacking any notation of non-receipt of any item listed.

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.

Given the basis for granting the petition, the $400 petition fee has been refunded to Deposit Account No. 01-0025.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of March 18, 2004, using the application papers received in the Office on that date and the 6 pages of drawings as re-supplied on petition filed August 3, 2004, and for indication in Office records that 6 sheets of drawings were present on filing.

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
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

NOV 0 8 2005

TECHNOLOGY CENTER 2100

In re Application of: KODAMA
Application No. 10/802,852
Filed: March 18, 2004
For: STORAGE SYSTEM STORING A FILE WITH MULTIPLE DIFFERENT FORMATS AND METHOD THEREOF

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

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

MAILED

JAN 25 2006

TECHNOLOGY CENTER 2100

In re Application of: KODAMA
Application No. 10/802,853
Filed: March 18, 2004
For: DATA WRITE PROTECTION IN A STORAGE AREA NETWORK AND NETWORK ATTACHED STORAGE MIXED ENVIRONMENT

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 22 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 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
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

In re Application of: SAHARA, et al.
Application No. 10/802,859
Filed: March 18, 2004
For: INFORMATION PROCESSING SYSTEM AND 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 January 4, 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 Reconsideration of 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.

4/11/05

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

SDL: 04/07/05

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DAVIDSON BERQUIST KLIMA & JACKSON, LLP
SUITE 920
4501 NORTH FAIRFAX DRIVE
ARLINGTON, VA 22203

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JUL 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Fiorenzo Draghetti, et al. :
Application No. 10/802,870 : DECISION ON PETITION
Filed: March 18, 2004 : TO WITHDRAW
Attorney Docket No. 2545-0442 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2004.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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.

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). The power of attorney filed on June 15, 2004 does not include one of the above two options.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: TIMOTHY J. KLIMA, ESQ.
HARBIN, KING & KLIMA
500 NINTH STREET SE
WASHINGTON, DC 20003

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JUN 0 8 2004

Office of the Director
Group 3600

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

In re application of : **DECISION ON PETITION**
Jiten Chatterji et al. : **TO MAKE SPECIAL**
Application No. 10/802,903 : **(APPLICANT'S AGE)**
Filed: March 17, 2004 :
For: CEMENT COMPOSITIONS COMPRISING IMPROVED LOST CIRCULATION MATERIALS AND METHODS OF USE IN SUBERRRANEAN FORMATIONS

This is a decision on the petition submitted on MaRCH 17, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Chatterji indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/slb: 6/04/04

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LISA A. HAILE J.D. P.H.D.
DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/22/2010

Applicant	: Evan C. Unger	: DECISION ON REQUEST FOR
Patent Number	: 7612033	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/802,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **763** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LISA A. HAILE J.D. P.H.D.
DLA PIPER US LLP
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 05/18/2010

Applicant : Evan C. Unger
Patent Number : 7612033
Issue Date : 11/03/2009
Application No: 10/802,919
Filed : 03/18/2004

: 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 **772** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK NY 10036-2714

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APR 13 2006
OFFICE OF PETITIONS

In re Application of :
ADACHI : DECISION ON PETITION
Application No. 10/802,922 :
Filed: March 18, 2004 :
Atty. Dkt. No.: M1071.1900 :

This decision is in response to the petition under 37 CFR 1.181 filed March 15, 2006.

This application was held abandoned January 12, 2006, for failure to timely file a proper response to the Notice of Allowance (Notice) mailed October 11, 2005. The Notice action set a three month statutory period for reply. This decision precedes Notice of Abandonment.

Petitioner argues that the Notice mailed October 11, 2005 was not received at the correspondence address of record for the instant application.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

In support of the petition, petitioner has provided a copy of the docket record where the Office communication would have been

entered had it been received along with a statement from practitioner that a search of the docket record and file jacket indicated that the Office communication was not received.

In view thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

This application is being directed to Technology Center 1700 for re-mailing of the Notice.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS
(6TH AVENUE)
NEW YORK NY 10036-2714

In re Application of	:	
Fumiya Adachi	:	
Application No. 10/802,922	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. M1071.1900	:	

This is a decision on the petition, filed November 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 October 12, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1775 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAIL

JAN 25 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Hideo ANDO, et al. :
Application No. 10/802,928 :
Filed: March 18, 2004 :
For: **INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS, AND INFORMATION PLAYBACK METHOD AND APPARATUS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Hideo ANDO, et al. :
Application No. 10/802,947 :
Filed: March 18, 2004 :
For: **INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS, AND INFORMATION PLAYBACK METHOD AND APPARATUS** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed November 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Christopher L. Schutte, et. al. :
Application No. 10/802,951 : DECISION ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. TI-34807.1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed, July 31, 2007, which set a shortened statutory period for reply of one month or thirty days or whichever is longer. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on September 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
Petitions Examiner
Office of Petitions

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FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:
Andersson et al.	: DECISION GRANTING
Application No. 10/802,970	: PETITION
Filed: 16 March, 2004	:
Attorney Docket No. 14998US02	:

This is a decision on the petition under 37 CFR 1.53, filed on 14 June, 2004, requesting that the above-identified application, including four (4) sheets of drawings be accorded a filing date of 16 March, 2004.

The application was filed on 16 March, 2004. Accordingly, on 1 June, 2004, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 14 June, 2004, the present petition was filed, accompanied by four (4) sheets of drawings.

Petitioners assert that the application as filed included four (4) sheets of drawings which were misplaced after receipt at the USPTO. In support, a copy of petitioners' itemized postcard receipt was supplied. The postcard bears an Office date of 03-16-04 and the above-identified application number and itemizes the filing of, *inter alia*, four (4) sheets of drawings.

A review of the record reveals that no sheets of drawings received on 16 March, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 16 March, 2004, included four (4) sheets of drawings, which were

subsequently misplaced in the Office. Therefore, the application, including four (4) sheets of drawings, is entitled to a filing date of 16 March, 2004.

In view of the above, the petition is granted. No petition fee has been charged and none is due.

The application will be processed with the copy of the four (4) sheet of drawings supplied on 14 June, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 16 March, 2004, using the application papers filed on that date, and the copy of four (4) sheets of drawings described in the specification supplied with the present petition, and for an indication in Office records that four (4) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

Mail Date: 04/21/2010

Applicant	: Chris Smith	: DECISION ON REQUEST FOR
Patent Number	: 7642833	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/802,977	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **290** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE WA 99201

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Darko Kirovski	:	
Application No. 10/802,981	:	DECISION GRANTING PETITION
Filed: March 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MS1-1934US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 27, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2435 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Date Mailed : November 27, 2007

Patent No. :7,260,620
Inventor :David E. Halasz
Patent Issued :August 21, 2007
Title :SYSTEM FOR SELECTING THE OPERATING FREQUENCY OF A COMMUNICATION :DEVICE IN A WIRELESS NETWORK

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.

The first sentence of the specification" and/or any amendments thereto, is used for printing data claimed under 35 USC 120. Since the first sentence of the specification does not refer to the additional information as reflected on applicants request no correction is in order here under Rule 1.322. Additionally, a claim under 37 CFR 1.78(a)(2) "Cross reference to other related applications" could not be found in application papers.

In view of the forgoing applicants request in this matter is hereby denied.

To further consider your request regarding this matter, a request for reconsideration filed under 37 CFR 1.323 which includes the required Certificate of Corrrection fee of $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 1.322 should be submitted. Required documentation may include acknowledgement of receipt.

Future correspondence concerning this matter should be directed to Decisions and Certificate of Correction Branch.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 305-8309 or (703) 305-9350 Ext. 123

Tucker Ellis & West LLP
925 Euclid Avenue,
1150 Huntington Building
Cleveland, OH 44115-1414

CBN/arg

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OCT 0 2 2006

OFFICE OF PETITIONS

In re Application of :
Lawrence D. Wong :
Application No. 10/802,991 : ON PETITION
Filed: March 16, 2004 :
Attorney Docket No. 10559-586003 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed June 1, 2004. A Notice of Abandonment was mailed on February 17, 2005.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of five (5) sheets of replacement drawings containing Figures 1-7 and a substitute specification; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Charles G. Call
361 Wild Coffee Lane
Marco Island, FL 34145

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MAR 0 2 2010

OFFICE OF PETITIONS

In re Application of
Ernest Rehmi Post, et. al.
Application No. 10/802,998
Filed: March 17, 2004
Attorney Docket No. E-09

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed March 16, 2009, to revive the above identified application.

The application was held abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers (Notice) purportedly mailed September 21, 2007. A Notice of Abandonment was mailed January 7, 2008.

Petitioner asserts that the Notice mailed September 21, 2007 was never received.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lack items (1).

With respect to item (1), the record fails to show that petitioner submitted the required reply to the Notice mailed September 21, 2007. Therefore, revival under 37 CFR 1.137(a) cannot be granted. On the other hand, petitioner has an alternate remedy under the provisions of 37 CFR 1.181 (no fee) requesting that the abandonment for the above application be withdrawn.

MPEP 711.03(c), under the subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states 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.

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." 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 Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

David Bucci
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Charles G. Call
361 Wild Coffee Lane
Marco Island, FL 34145

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MAY 24 2010

OFFICE OF PETITIONS

In re Application of :
Ernest Rehmi Post, et. al. :
Application No. 10/802,998 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. E-09 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2010, to revive the above identified application.

In response to the decision mailed March 2, 2010, petitioner submits the present petition under 37 CFR 1.137(b) along with an amendment and one sheet of replacement drawings containing Figures 21-24.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of one sheet of replacement drawings containing Figures 21-24; (2) the petition fee of $1,620; 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/
Andrea Smith
Petitions Examiner
Office of Petitions

United States
Patent And
Trademark Office

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PETITION DECISION

05/24/04

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 10/803018 received on 04/19/04 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Kaletus King, Office of Pre-Grant Publication 703 605-4283.

Kaletus King

Signature of Reviewer, Office of Pre-Grant Publication

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REED SMITH LLP
3110 Fairview Park Dr.
Suite 1400
Falls Church, VA 22042

MAIL

SEP 2 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
TAGUCHI
Application No. 10/803,024
Filed: March 18, 2004
For: METHOD AND APPARATUS FOR STORAGE NETWORK MANAGEMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition, filed on July 26, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In

those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission of 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

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DEBORAH L. MACPHERSON
512 BEULAH ROAD N.E.
VIENNA VA 22180

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OFFICE OF PETITIONS

In re Application of :
Deborah MacPherson :
Application No. 10/803,040 : ON PETITION
Filed: 03-18-2004 :
Title: Context driven topologies :

This is a decision on the petition filed January 10, 2007, requesting that the Office "black out" the social security number in the application papers.

On March 18, 2004, petitioner filed the present application. Petitioner mistakenly placed her social security number on the specifications filed March 18, 2004, and July 6, 2004. On January 10, 2007, petitioner submitted the present petition and a $130.00 petition fee.[1] Petitioner requested that the Office redact her social security number from the specifications. The Office notes that the specifications appear in Image File Wrapper format.

The Office does not require an inventor's social security number, and there is no need to include this type of personal information in a patent application. Furthermore, the inclusion of the inventor's social security number is not important in deciding the issue of patentability. Therefore, the petition is **granted**.

The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. Nevertheless, when dealing with sensitive information mistakenly identified in patent application papers, the Office will make copies of the original specifications and will remove the social security numbers from the copies. Thereafter, the Office will scan the copies of the redacted specifications into the Image File Wrapper, and will use these copies for examination purposes.

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[1] The current fee for filing a petition under 37 CFR 1.59 is $200.00. Although petitioner submitted a $130.00 fee for filing this petition, the Office finance records indicate that petitioner submitted a $130.00 petition fee on July 6, 2004, to accept black and white photographs. The Office notes there was no requirement for a petition or petition fee to accept the black and white photographs filed on July 6, 2004. See 1213 O.G. 108 (Aug. 4, 1998) and 1211 O.G. 34 (June 9, 1998) and 37 CFR 1.84(b)(1). Therefore, the Office will apply the $130.00 fee paid on July 6, 2004, toward the outstanding balance of $70.00 for filing this petition. The Office will refund the remainder in the amount of $60.00 by treasury check in due course.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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1940 DUKE STREET
ALEXANDRIA VA 22314

JAN 2 1 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Hideo ANDO, et al. :
Application No. 10/803,041 : DECISION ON PETITION
Filed: March 18, 2004 : TO MAKE SPECIAL
For: **INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS, AND INFORMATION PLAYBACK METHOD AND APPARATUS** :

This is a decision on the petition filed November 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

In re Application of :
Hideo Ando et al :
Application No. 10/803,041 : ON PETITION
Filed: March 18, 2004 :
Attorney Docket No. 249617US2SDIV :

This is a decision on the petition, filed February 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 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 2616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE
P.O. BOX 8910
RESTON VA 20195

In re Application of :
Ho-Cheol Lee :
Application No. 10/803,043 : ON PETITION
Filed: March 18, 2004 :
Attorney Docket No. 8947-000077/US :

This is a decision on the petition, filed June 15, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 20, 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 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20435-9998

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Gerday, et al. :
Application No. 10/803,055 : DECISION GRANTING PETITION
Filed: March 18, 2004 :
Attorney Docket No. 31601-201282 :

This is a decision on the petition filed April 26, 2005, to accord the above-identified application a filing date of March 18, 2004.

On March 18, 2004, the application was deposited.

On March 16, 2005, the Office of Initial Patent Examination mailed a Notice indicating that drawings were not present and that a filing date had not been accorded the application because the drawings were believed to be necessary in order to understand the invention claimed. The Notice allowed a period for reply of two-months from its mailing date.

The instant petition was filed responsively on April 26, 2005.

It has determined, however, that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[1] A review of the record reveals that claim 2 is a method claim. Therefore, the present application is deemed to be an application that does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date. The figure filed with the instant petition will not be included as part of the original application papers filed on March 18, 2004. A preliminary amendment requesting entry of the drawings should be filed prior to the first action on the merits.

In view of the above, the petition is **granted.** The petition fee of $400.00 will be refunded to deposit account 22-0261.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 18, 2004, using only those application papers filed on March 18, 2004. The Office of Initial Patent Examination is directed to issue a corrected filing receipt.

[1]MPEP 601.01(f).

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Hideo ANDO, et al. :
Application No. 10/803,058 :
Filed: March 18, 2004 :
For: **INFORMATION RECORDING MEDIUM, INFORMATION RECORDING METHOD AND APPARATUS, AND INFORMATION PLAYBACK METHOD AND APPARATUS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed November 15, 2004 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

COPY MAILED

AUG 1 1 2004

OFFICE OF PETITIONS

In re Application of :
Vijay Chowdhury and John Aguada :
Application No. 10/803,065 : DECISION ON PETITION UNDER
Filed: March 16, 2004 : 37 C.F.R. §1.47(A)
Attorney Docket No. 060889-0102 :
Title: NOVEL METHOD FOR DIE :
REMOVAL FROM PLASTIC PACKAGES :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed June 21, 2004.

On March 16, 2004, the application was deposited, identifying Vijay Chowdhury and John Aguada as joint inventors. The application was deposited with a declaration which was executed only by Mr. Chowdhury. On June 1, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and a surcharge of $130.00 were required. This Notice set a two-month period for reply.

On June 21, 2004, petitioner submitted the instant petition, the associated fee, the surcharge, copies of two letters, and a statement of facts.

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 inventor at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the application will be forwarded to Technology Center 2800 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA VA 22182-3817

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of :
Hasegawa et al. :
Application No. 10/803,087 :
Filed: March 18, 2004 :
Attorney Docket No. PHCF-04015 :
For: SEMICONDUCTOR FILM :
FORMATION DEVICE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RE-EVALUATION OF PATENT TERM ADJUSTMENT", filed October 19 2009. Applicants argue they prevailed over the examiner's reopening of prosecution.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

On October 6, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one hundred sixteen (116) days. Applicants request verification of the determination of patent term adjustment under 35 U.S.C. § 154(b).

Submission of the patent term adjustment application fee is a prerequisite prior to treatment on the merits of any application submitted pursuant to 37 CFR 1.705. The instant application was filed without the required $200.00 fee. The application for patent term adjustment did not authorize the Office to charge the required fee to applicants' deposit account.

Accordingly, the application for patent term adjustment is subject to dismissal for lack of fee.

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 12 2007

OFFICE OF PETITIONS

JILL L. ROBINSON
95 SHUEY DRIVE
MORAGA CA 94556

In re Application of
John A. Clark
Application No. 10/803,107
Filed: March 17, 2004
Attorney Docket No. HAMM 1010 PA

ON PETITION

This is a decision on the petition filed October 5, 2007, requesting withdrawal of the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 7,278,336 on October 9, 2007.

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The Request for Continued Examination (RCE) submitted with the petition is not effective and will not be entered since the petition to withdraw from issue is dismissed.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(l).

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FROM DIRECTORS OFFICE

AUG 20 2004

TECHNOLOGY CENTER 3600

USDA, ARS, OTT
5601 SUNNYSIDE AVENUE
RM 4-1159
BELTSVILLE, MD 20705-5131

In re application of : **DECISION ON PETITION**
Morton Beroza : **TO MAKE SPECIAL**
Application No. 10/803,121 : **(APPLICANT'S AGE)**
Filed: March 17, 2004 :
For: INSECT ATTRACTANT RELEASING DEVICE

This is a decision on the petition submitted on April 21, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Beroza indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Best Available Copy

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 8/09/04

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HARRIS ZIMMERMAN
LAW OFFICES OF HARRIS ZIMMERMAN
SUITE 710
1330 BROADWAY
OAKLAND, CA 94612

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APR 0 5 2007

OFFICE OF PETITIONS

In re Application of
Hector A. D'Auvergne
Application No. 10/803,124
Filed: March 16, 2004
Attorney Docket No. 4359

ON PETITION

This is a decision in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed September 19, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the above-identified application.

A review of the record discloses that the application became abandoned for failure to pay the issue/publication fee on or before April 3, 2006. A Notice of Abandonment was mailed on August 24, 2006. In response, on September 19, 2006, the present petition was filed. Petitioner argues that the issue/publication fee was timely filed in view of an accompanying petition for extension on May 2, 2006.

Petitioner's argument is not well taken. The Notice of Allowance and Fee(s) Due mailed January 3, 2006 clearly states that the issue fee and publication fee must be paid within three months from the mailing date of the notice or the application shall be regarded as abandoned. The Notice further states that the period set for paying the issue fee is a statutory period which cannot be extended. See 35 U.S.C 1.51. The issue/publication fee was not paid until May 2, 2006, which is clearly after the due date of April 3, 2006. Consequenlty, the application was properly held abandoned.

The petition to withdraw the holding of abandonment under 37 CFR 1.181 is **DISMISSED.**

Since there is no basis for treated the petition under 37 CFR 1.137(a), the petition is being treated as a petition to revive under the provision of 37 CFR 1.137(b). The $750 petition fee is being charged to counsel's deposit account as authorized.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

[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 petition lacks item (3) the required statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)" as well as the omitted item(s) noted above. This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or within the response period set by statute. In no case, however, may an applicant respond later than the maximum time period set by statute. The petition for extension of time submitted with the issue/publication fee on May 2, 2006 and the one submitted with the present petition on September 19, 2006 were filed when the provisions of 37 CFR 1.136 could no longer be used. This application became abandoned when the unextended time for response had expired, i.e., April 4, 2006. Since no extension of time fees are due on a petition for revival, no fees will be charged for the petition for extension of time filed September 19, 2006. The extension fee paid May 2, 2006 was submitted after abandonment; therefore, the fee is being credited to counsel's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

HARRIS ZIMMERMAN
LAW OFFICES OF HARRIS ZIMMERMAN
SUITE 710
1330 BROADWAY
OAKLAND CA 94612

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OFFICE OF PETITIONS

In re Application of
Hector A. D'Auvergne
Application No. 10/803,124
Filed: March 16, 2004
Attorney Docket No. 4359

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) to revive the above-identified application, filed May 3, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 3, 2006. A Notice of Abandonment was mailed on August 24, 2006. On September 16, 2006 a petition under 37 CFR 1.137(b) was filed; however, the petition was subsequently dismissed in a decision mailed April 5, 2007. In response, on May 3, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue/publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

It is noted that a $750 petition fee was erroneously charged to counsel's deposit account in association with the present petition. Since no further petition fee is required on a renewed petition under 37 CFR 1.137(b), the $750 is being credited to counsel's deposit account.

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERT W. GLATZ
MYERS BIGEL SIBLEY & SAJOVEC
POST OFFICE BOX 37428
RALEIGH, NC 27627

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JAN 25 2005

OFFICE OF PETITIONS

In re Application of :
Bloebaum, Leland Scott :
Application No. 10/803,139 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No. 9314-69 :

This is a decision on the petition filed October 12, 2004, requesting that the above-identified application be accorded a filing date of March 17, 2004, rather than the presently accorded date of March 18, 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 March 17, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 381443530 US showing a "March 17, 2004" receipt stamp. The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated March 17, 2004 on the cover page for the application papers.

In view of the USPS receipt stamp of March 17, 2004, appearing on the same Express Mail label, it is concluded that the application was deposited as "Express Mail" with the USPS on March 17, 2004.

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 March 17, 2004, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2661 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
BLOEBAUM, Leland Scott
Application No.: 10/803,139
Filed: March 17, 2004
Attorney Docket No.: 9314-69

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
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Townsend And Townsend And Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of :
Michael V. CHOBOTOV :
Application No. 10/803,153 : DECISION ON PETITION
Filed: March 17, 2004 : TO WITHDRAW
Attorney Docket No. 021630-000330US : 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 1, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the signature of the requesting attorney Nicholas V. Sherbina was omitted.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica Graves at 571-272- 7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Daniel A. Scola, Jr., Esq.
Hoffman & Baron
1055 Parsippany Boulevard
Parsippany, NJ 07054

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

LOWE, HAUPTMAN, HAM & BERNER, LLP (ITW)
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

Mail Date: 04/26/2010

Applicant	: Alain Vettoretti	: DECISION ON REQUEST FOR
Patent Number	: 7638233	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/803,159	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1686** 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 : 12-1-05

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction on Patent No.: 6,911,070

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Norma
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: No documentation in the application file that US Patent 5191088 was considered.

J.A. LORENGO
SUPERVISORY PATENT EXAMINER
SPE
1755
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Off

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9-17-08 **Paper No.:** _____

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 10803173 Patent No.: 6911072

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

Valerie Jacks
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

[X] **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

J.A. LORENGO
SUPERVISORY PATENT EXAMINER
SPE

1793
Art Unit

SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/29/07

TO SPE OF : ART UNIT 2612 (spe) Daniel Wu

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/803191 Patent No.: 7075437

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved	All changes apply.
☐ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: _____

SPE 2612 Art Unit

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LAW OFFICES OF JIM ZEGEER
801 NORTH PITT STREET, #108
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Richard J. FELDMANN
Application No. 10/803,195
Filed: March 18, 2004
Attorney Docket No. 3399-Z

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley and Lardner LLP, has been revoked by the assignee of the patent application on November 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RICHARD J. FELDMANN
GLOBAL DETERMINANTS INC.
17800 MILL CREEK DR.
DERWOOD, MD 20855-1019

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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OFFICE OF PETITIONS

In re Application of	:	
Richard J. FELDMANN	:	
Application No. 10/803,195	:	DECISION ON PETITION
Filed: March 18, 2004	:	TO WITHDRAW
Attorney Docket No. FELD3002CIP2/ESS	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R.. § 1.36(b), filed August 22, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Eric S. Spector on behalf of the attorneys of record associated with Customer No. 23364.

The attorneys of record associated with Customer No. 23364 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 the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RICHARD J. FELDMANN
17800 MILL CREEK DRIVE
DERWOOD, MD 20855-1019

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

TOWNSEND, TOWNSEND and CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

In re Application of : TAMURA ET AL.
Application No. 10/803,204
Filed: MARCH 17, 2004
For: INFORMATION PROCESSING DEVICE AND METHOD

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P.§708.02(VIII) & 37 C.F.R. 102(d)

This is a decision on the petition filed February 28, 2005 under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with the procedures set forth in M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

4/29/05

JC

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TOWNSEND AND TOWNSEND AND CREW, L.L.P.
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111-3834

MAIL

DEC 3 0 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Fujiwara et al.
Application No. 10/803,227
Filed: March 16, 2004
For: STORAGE DEVICE AND SYSTEM FOR PROVIDING COMMUNICATIONS BUFFFER RESERVATION FUNCTION

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed September 28, 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 is **GRANTED** since all of the requirements for special status under M.P.E.P. §708.02, Section VIII has 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

HMJ: 12/09/04

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2000 BERING DRIVE
SUITE 700
HOUSTON TX 77057

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OFFICE OF PETITIONS

In re Application of	:	
Lilly et al.	:	
Application No. 10/803,259	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. Anon 001:C	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 14, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a Declaration signed by the applicant, Ralph B. Lilly, M.D. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3626 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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CYNTHIA L. SMITH
BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of :
Pamela K. Lowenthal :
Application No. 10/803,275 :
Filed: March 18, 2004 :
Attorney Docket No. 36655-95604 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 20, 2005, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a medical certificate from the applicant's doctor dated November 29, 2005 attesting to the fact that the applicant is under the doctor care for treatment of recurrent metastatic breast carcinoma to the brain, lungs, pleural fluid, liver and bone. It is therefore clear from the evidence that the applicant might not be able to assist in the prosecution of the application due to her illness if said prosecution were to run it's normal course. Accordingly, the above-identified application has been accorded "special" status.

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.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

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555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of :
BUTTS, M. David et al. :
Application No. 10/803,279 : DECISION ON PETITION
Filed: March 18, 2004 : TO WITHDRAW
Attorney Docket No. **480062004300** : 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 05, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

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MICHAEL K. LINDSEY
GAVRILOVICH, DODD & LINDSEY, LLP
3303 N. SHOWDOWN PL.
TUCSON AZ 85749

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OFFICE OF PETITIONS

In re Application of :
Stephen J. Pearson :
Application No. 10/803,302 : ON PETITION
Filed: March 18, 2004 :
Attorney Docket No.: MKL-006 :

This is a decision on the petition filed May 18, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on July 21, 2005, for failure to timely submit a timely response to the non-Final Office Action mailed April 20, 2005 and which set a three (3) month period for reply. Accordingly, a Notice of Abandonment was mailed March 23, 2006.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of an amendment and a post card receipt.

A search of the application file and the USPTO records does not reveal receipt of the response and the postcard receipt filed with the petition does not bear a USPTO postmark, but the response in the form of an amendment does in fact bear a certificate of mail, pursuant to 37 CFR 1.8, dated July 6, 2005. Thus, the evidence submitted corroborates a timely response to the non-Final Office Action.

Accordingly, the holding of abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 3728 for appropriate action on the amendment filed July 6, 2005, a copy of which was submitted upon petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Glenn C. Calhoun	: DECISION ON REQUEST FOR
Patent Number	: 7592391	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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REINHART BOERNER VAN DEUREN P.C.
483 NORTH MULFORD ROAD
SUITE 7
ROCKFORD IL 61107

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Horst et al.	:	
Application No. 10/803,308	:	ON PETITION
Filed: March 18, 2004	:	
Attorney Docket No. 502611-CIP	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 12, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes an Affidavit from the applicant, Patricia J. Horst. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

There is an outstanding Office action mailed April 6, 2006 that requires a reply.

This matter is being referred to the Technology Center Art Unit 3677 to await a reply to the Office action and for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Andrea C. Hughs-Baird	: DECISION ON REQUEST FOR
Patent Number	: 7666087	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,309	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1742** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FROMMER LAWRENCE & HAUG
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NEW YORK, NY 10151

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OFFICE OF PETITIONS

In re Application of :
Anna N. Yarosklavsy, et al. :
Application No. 10/803,329 : ON PETITION
Filed: March 18, 2004 :
Attorney Docket No. 910000-2043.1 :

This is a decision in response to the petition under 37 CFR 1.182, filed July 7, 2004, to change the order of the names of the inventors.

The petition is Dismissed.

A review of the record discloses that in view of the executed declaration filed June 14, 2004, the order of the names of the inventors were changed as follows:

1. Anna N. Yarosklavsky
2. R. Rox Anderson

For applicant's convenience, a replacement Filing Receipt is enclosed. Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220.

The application is being returned to the Office of Initial Patent Examination for further processing.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

Mail Date: 04/21/2010

Applicant	: Anna N. Yaroslavsky	: DECISION ON REQUEST FOR
Patent Number	: 7627363	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,329	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **697** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of :
Ralf Kampshausen, et al. :
Application No. 10/803,330 : DECISION ON PETITION
Filed: March 17, 2004 : TO WITHDRAW
Attorney Docket No. 9208.0012 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 30, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Linda J. Thayer on behalf of all attorneys of record who are associated with customer No. 22852.

All attorneys/agents associated with the Customer Number 22852 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed August 24, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DR. RALF KAMPHAUSEN
IM KAMP 7
38533 VORDORF
GERMANY

cc: PETER J, GORDON, ESQ.
SENIOR PATENT ATTORNEY
AVID TECHNOLOGY INC.
ONE PARK WEST
AVID TECHNOLOGY PARK
TEWKSBURY, MA 01876

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
10/803,330	03/17/2004	Ralf Kamphausen	9208.0012

CONFIRMATION NO. 5588

OC000000021284408

OC000000021284408

22852
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/21/2010

Applicant	: Jeff Williams	: DECISION ON REQUEST FOR
Patent Number	: 7617519	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/803,364	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1041** 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

STEPHEN B. SALAI, ESQ.
HARTER, SECREST & EMERY LLP
1600 BAUSCH & LOMB PLACE
ROCHESTER, NY 14604-2711

COPY MAILED

MAY 04 2007

OFFICE OF PETITIONS

In re Application of :
WIEGEL et al :
Application No.: 10/803,376 : DECISION ON PETITION
Filing Date: March 18, 2004 : UNDER 37 CFR 1.137(B)
Attorney Docket No.: 94012.000003 (AS-002PUS) :

This is a decision on the petition under 37 CFR 1.137(b), filed December 14, 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 October 31, 2005, which set a three month shortened statutory period for response. 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 February 1, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

However, the petition is not in compliance with 37 CFR 1.33(b) in that it is not signed by either a practitioner or all of the applicants.

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

UNITED STATES 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. SALAI, ESQ.
HARTER, SECREST & EMERY LLP
1600 BAUSCH & LOMB PLACE
ROCHESTER, NY 14604-2711

COPY MAILED

MAY 18 2007

OFFICE OF PETITIONS

In re Application of :
WIEGEL et al :
Application No.: 10/803,376 : DECISION ON PETITION
Filing Date: March 18, 2004 : UNDER 37 CFR 1.137(B)
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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 and remarks; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

Applicant is advised that it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure, Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being referred to Technology Center AU 3612 for appropriate action on the reply in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE of Data Management

THOMAS J. FINN, ESQ.
RAYTHEON COMPANY
EO/E4/N119, P.O.BOX 902
2000 E. EL SEGUNDO BLVD.
EL SEGUNDO CA 90245-0902

In re Application of :
CROUCH, DAVID D. :
Application No. 10/803,403 :
Filed: March 18, 2004 :
Attorney Docket No. PD-02W127 :

DEC 30 2008

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on July 24, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed March 6, 2006. The Notice of Abandonment, mailed on July 13, 2006 indicates, "The submitted fee of $300 is insufficient. A balance of $1400 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on March 27, 2006 authorizing that the Issue Fee be charged to Deposit Account No. 50-0888. On March 27, 2006 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at (703) 308-9250 Ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

UNITED STATES 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 / Raytheon
P.O. Box 2938
Minneapolis, MN 55402

COPY MAILED

MAY 06 2009

OFFICE OF PETITIONS

In re Application of Crouch :
Application No. 10/803,403 : Decision on Petition
Filing Date: March 18, 2004 :
Attorney Docket No. PD-02W127 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 12, 2009, to revive the above-identified application.

The petition is **granted**.

Facts

The Office mailed a Notice of Allowance on March 6, 2006. The Notice set a statutory period for reply of three (3) months.

The issue fee transmittal form was filed March 27, 2006. At the time the Office tried to charge the $1,400 issue fee and $300 publication fee to the deposit account on the issue fee transmittal sheet, the deposit account had a balance of $1,530. The Office charged the publication fee of $300 to the deposit account, but was unable to charge the issue fee due to the insufficient balance of funds in the deposit account.

Since the issue fee was not timely paid, the application became abandoned on June 28, 2006. A Notice of Abandonment was mailed July 13, 2006.

A petition to withdraw the holding of abandonment was filed July 24, 2006. A decision dismissing the petition to withdraw the holding of abandonment was mailed December 30, 2008.

The instant petition was filed February 12, 2009.

Discussion

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 Notice of Allowance in the form of an issue fee payment of $1,510. 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.

Deposit Account No. 19-0743 was charged $300 for the publication fee on February 12, 2009. However, the $300 fee was originally paid March 27, 2006. Therefore, the $300 paid February 12, 2009, has been credited back to Deposit Account No. 19-0743.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and will take steps to prepare the application for issuance as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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SEP 14 2004

10/803,409 12382-4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Group Art Unit: 1731 Walls
VON BORSTEL, Reid W.	)	Examining Attorney: To be assigned
Serial No.: 10/803,409	)	
Filed: March 17, 2004	)	Confirmation No. 5555
For: Filter Containing a Metal Phthalocyanine and a Polycationic Polymer	)	Pasadena, California

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700

FEB 18 200

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR § 1.102 AND MPEP § 708.02, VIII

Commissioner for Patents
P. O. Box 1450
Alexandria VA 22313-1450

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No.703-872-9306 on September 14, 2004.

Date: September 14, 2004

Signature

Jennifer Hargis
Typed or printed name of

Sir:

The Applicant hereby submits this written Petition to Make Special for the above-identified application in accordance with the requirements of 37 CFR § 1.102 and MPEP § 708.02, VIII. The above-identified application has not received any examination by an examiner.

The Applicant believes that all the claims in the above-identified application are directed to a single invention. If the Patent and Trademark Office determines that all the

PAGE 1/10 * RCVD AT 9/14/2004 3:38:52 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/3 * DNIS:8729306 * CSID:626 795 6321 * DURATION (mm-ss):03-14

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SEP 14 2004

10/803,409 12382-4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Group Art Unit: 1731
VON BORSTEL, Reid W.	Examining Attorney: To be assigned
Serial No.: 10/803,409	
Filed: March 17, 2004	Confirmation No. 5555
For: Filter Containing a Metal Phthalocyanine and a Polycationic Polymer	Pasadena, California

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

FEB 28 2005

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 CFR § 1.102 AND MPEP § 708.02, VIII

Commissioner for Patents
P. O. Box 1450
Alexandria VA 22313-1450

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. 703-872-9306 on September 14, 2004.

Date: September 14, 2004

Signature

Jennifer Hargis
Typed or printed name of

Sir:

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UNITED STATES 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 A. Farah, M.D.
SHELDON & MAK PC
225 South Lake Avenue, 9th Floor
Pasadena CA 91101

MAILED

MAY 03 2010

OFFICE OF PETITIONS

In re Application of
Reid Von Borstel
Application No. 10/803,409
Filed: March 17, 2004
Attorney Docket No. 12382-4

NOTICE

This is in response to the paper filed January 20, 2010 under 37 CFR 1.27(c) seeking status as a small entity.

The statement claiming small entity status of Filligent Limited has been made of record and small entity status has been accorded.

The application file is being forwarded to Files Repository.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions